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ABSTRACT

This resource manual is intended to assist correctional agencies in developing or upgrading educational and support services for adult inmates with retardation or learning disabilities. Following an introductory section, section 2 summarizes definitions and symptoms of mental retardation and learning disabilities, identifies their incidence among inmates, and focuses on programming needs. Section 3 analyzes provisions for inmate claims to special education, from a legal perspective. Section 4 reviews processes of establishing a special education program in an adult correctional facility. Section 5 describes five different programs that currently serve offenders with mental retardation. The focus of Section 6 is on the nature and level of standards that may be used to develop, implement, and supervise special educational programming for the learning disabled. Section 7 presents model standards for the overall education, treatment, and care of mentally retarded inmates according to six main objectives. Section 8 outlines 10 model policies of special education programs in corrections. Section 9 is a resource guide listing clearinghouses and information centers, national associations and organizations, and state and state-affiliated agencies. Section 10 is a federal funding guide. Other contents include abstracts of key relevant literature, a glossary, a 46-item bibliography, and appendices containing sample forms, court case citations, and information about the study from which this report was compiled. (YLB)

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PROGRAMMING FOR MENTALLY RETARDED AND LEARNING DISABLED INMATES: A GUIDE FOR CORRECTIONAL ADMINISTRATORS

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January 1989

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FOREWORD

Although the precise number of inmates who are mentally retarded or learning disabled is unknown, studies have shown that a significant percentage of prison inmates are among this special needs population. While over-represented in corrections in comparison to the general population, mentally retarded and learning disabled individuals are under-represented in corrections programs designed to improve academic and vocational skills.

Litigation, which has been used in some states to address the needs of these offenders, is beginning to have a profound effect on correctional agencies. Administrators struggling with limited resources must now consider the special needs of mentally retarded and severely learning disabled inmates.

Using special congressional appropriations made available in fiscal year 1985 to support correctional education, the Institute sponsored work in the area of "Programming for Mentally Retarded and Severely Learning Disabled Inmates". This Guide represents one of the results of that effort.

It is our hope that this Guide will prove to be of assistance to correctional administrators and service providers who have responsibility for developing, implementing, and maintaining academic and vocational training programs and support services for mentally retarded and learning disabled inmates.

Raymond C. Brown, Director
National Institute of Corrections

Acknowledgments

This Guide represents the combined efforts of many agencies and individuals. Because the Guide was developed to be used as a flexible resource manual, we owe thanks to a vast and diverse group of contributors. It is therefore a difficult task to acknowledge every person who helped the Guide progress to its completion, and we truly regret any inadvertent omission from the following list of agencies and individuals.

We must begin by thanking the various agencies from 31 states which generously supplied us with requested information, and provided the initial documentation. We were able to narrow the focus of our research by visiting twenty-one institutions throughout the states of Maryland, Illinois, Texas, Michigan, Georgia, California, and South Carolina. We would like to thank the staff from each of these institutions involved in this interview process. Five states were used in the Guide as having model programs that serve adult offenders with mental retardation. We also want to thank the following for accommodating the site visits and making both persons and materials available on site: John Linton and Helen Miller from the Maryland Department of Education and David Jenkins and Arnold Hopkins from the Maryland Department of Corrections; Lane Murray, Superintendent of the Windham System in Texas; Ronald Lane, Jack Fair, Jane Hall, and Lanson Newsome from the Georgia Department of Corrections; Diane Spence of the Michigan Department of Corrections; Hartzel Black, Director of the programs at Vienna Correctional Center in Illinois; Joann Morton and Layne Coleman from the South Carolina Department of Corrections; and, Norman Kramer, Program Director at the Camarillo State Hospital Developmental Center in California. We also would like to extend our gratitude to Jean Morton and DeAnn Hughes for providing the information on the Nebraska Individual Justice Plan.

The project also had a number of consultants and advisers who provided their advice and time in reviewing drafts and critiques at various stages in the Guide's development. We would like to thank Raymond Bell, Robert Brown, Jr, and William Barber for reviewing the Guide. Mr. John Moore, as NIC Project Manager of the Guide, provided guidance and assistance throughout the project, and we are grateful for his efforts.

Finally, we would like to acknowledge the individuals who assisted in the research, editing, and format of the Guide. Heidi Lawyer, Jill Hensley, and Joan Peterschmidt contributed to these ends at various stages of the project, and we appreciate all of their efforts.

Section 1

INTRODUCTION

The background and purpose of the Guide are presented. Written primarily for correctional administrators, the Guide may be used to assist in developing or improving educational services for adult inmates with retardation or learning disabilities. In this regard, the Guide may be used as a tool for planning and implementing programs that are in compliance with the law, and in line with sound special education and correctional practices. The section ends with specific information on how to use the Guide.

BACKGROUND

Programming for Mentally Retarded and Learning Disabled Inmates: A Guide for Correctional Administrators forms part of a special Congressional initiative to support correctional education in adult state prisons through a supplementary appropriation to the National Institute of Corrections (NIC), proposed by Senator Arlen Specter. This initiative is a response to growing public and congressional concerns over the proliferation of crime in the 1980s, continued high recidivism rates, and the poor performance of ex-offenders in the labor market after release from correctional confinement.

Understanding the dimensions of learning disabilities and mental retardation which exist among the population in correctional institutions is crucial if the above concerns are to be fully addressed. The inmate who must deal with or overcome some type of handicapping condition is immediately at a disadvantage when attempting to learn even the most basic functional living skills. The dimensions and effects of learning disabilities in particular, among the correctional population, have not yet been thoroughly examined. Insight can be gained, however, by examining the estimated effects of learning disabilities on the general population. One type of learning disability which affects many Americans is illiteracy. The Specter initiative, in fact, coincided with a growing national concern over widespread illiteracy in the U.S.

In 1983, the U.S. Department of Education (ED) estimated that approximately 23 million of the U.S. population are "functionally illiterate," with another 45 million only marginally literate.[1] In this context "literacy" is defined as "the possession of the essential knowledge and skills to enable an individual to function effectively in his or her environment--the home, the community, and the workplace." In practical terms, being functionally illiterate means that one cannot read, write, or compute well enough to decipher job advertisements, fill in a job

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[1] National Commission on Excellence in Education, A Nation at Risk: The Imperative for Educational Reform (Washington, DC: U.S. Department of Education, 1983).

application, follow written safety instructions at work, fill in a tax return, vote, or read the directions on commercial products.

The cost to individuals and to society of widespread functional illiteracy can probably never be determined with precision. However, the Senate Select Committee on Equal Opportunity estimated that in 1972 the cost to the country and the illiterates was $272 billion in unrealized lifetime earnings alone.[2] To that staggering figure should be added a proportion of the costs for welfare, unemployment compensation, and criminal justice, since the functionally illiterate comprise a considerable proportion of the clients of these systems.

While some 10 percent of the general population is functionally illiterate, the percentage in correctional institutions is much greater, estimated to be approximately 60 percent.[3] Although one cannot determine the direct causal link between functional illiteracy and crime, a statistical relationship can be seen. The unschooled are 25 times more likely to commit crime than a high school graduate. The high school drop-out commits crime six times more frequently than the high school graduate.[4]

Poor, undereducated, and unskilled, 40 percent of all offenders were unemployed or marginally employed prior to arrest. Even those who were employed earned on the average less than subsistence salaries.[5] Without further education and training, typical inmates--male as well as female--are virtually unemployable after release. These facts caused former Chief Justice Burger to remind us that "it is common sense and in society's collective self-interest that no one should leave prison without at least being able to read, write, do basic arithmetic and be trained in a marketable skill."[6]

Despite these concerns, however, the gap between inmates' educational needs and available services has remained wide. It has been estimated that whereas 75 percent of all incarcerated adults are in need of further academic and vocational training, only 25 percent are at any time enrolled

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2 David Harman, Turning Illiteracy Around: An Agenda for National Action (New York: Business Council for Effective Literacy, 1985).

3 Osa D. Coffey and Dianne Carter, Improving Corrections Education: Two Perspectives for Voc Ed (Columbus, OH: The Ohio State University, 1986).

4 Bureau of Justice Statistics, Report to the Nation on Crime and Justice: The Data (Washington, DC: U.S. Department of Justice, 1983).

5 Osa D. Coffey, "The American Prison as an Educational Institution," in Leon G. Leiberg, ed., Employment, Crime, and Policy Issues (Washington, DC: The American University College of Law; Institute for Advanced Studies in Justice, 1982).

6 Warren Burger, "Commencement Address at the George Washington School of Law," Washington, DC, May 1981.

in correctional education programs, whether full or part time.[7] The situation is even more critical for offenders with a variety of handicapping conditions, conservatively estimated to constitute approximately 42 percent of the correctional population as compared to 10 percent in the population at large.[8] Not only are they over represented in corrections, but they are also under represented in academic and vocational classes and in industries in correctional facilities.

Yet, this situation can be changed. Over the last decade Congress has passed several laws to facilitate access for the handicapped to needed educational and other services. The mandates of these laws usually extend to the incarcerated with handicaps. However, to date there has been little implementation of these laws in adult corrections and the handicapped offender continues to go largely unserved.

In planning for the distribution of the funding for correctional education received from Congress under the 1985 special appropriation, the NIC responded to the need for more and better educational and related services for handicapped inmates by making correctional special education one of the highest priorities. Since mental retardation and other learning disabilities are the predominant handicapping conditions among inmates, the NIC decided to focus on these two groups.

PURPOSE AND SCOPE OF GUIDE

This Guide is intended to assist correctional agencies in developing or upgrading educational services to better meet the needs of adult inmates with retardation or learning disabilities. There are two reasons for focusing the Guide on adult offenders in state correctional institutions. First, the Specter initiative is limited to this target group. Second, and more importantly, adult correctional agencies have been particularly slow or unable to deliver such services as compared with juvenile correctional agencies. Although correctional special education is far from adequate in juvenile correctional facilities, much progress has been made there in the last decade. The age factor and the closer ties between juvenile correctional facilities and the local and state education agencies have facilitated faster implementation of the mandates of Congress and state law.

By comparison, adult correctional agencies have only just begun to provide special education. Our research revealed that many adult correctional agencies and institutions are completely without specialized services to handicapped offenders. Few have attempted to implement the federal mandate of P.L. 94-142, as amended, hereafter referred to as EHA

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[7] Coffey and Carter, 1986.

[8] Raymond Bell, Elizabeth H. Conrad, and Robert J. Suppa, "The Findings and Recommendations of the National Study on Learning Deficiencies in Adult Inmates," Journal of Correctional Education 35 (December 1984): 129:37. Bell Conrad, and Suppa found that over 42% of a sample of 1,000 inmates from Louisiana, Pennsylvania, and Washington were "learning deficient."

(Education of the Handicapped Act), and those who have done so usually limit their services to the age 21 and under population. Even fewer were found to be in full compliance with the law.

The Guide is therefore primarily addressed to administrators in adult correctional agencies, to those who are in a position to make sure that inmates with retardation or learning disabilities in their system will, regardless of age, receive appropriate educational opportunities and become as well functioning as their abilities and handicaps permit. The intended audience for the Guide includes commissioners of corrections, directors of adult services, directors of treatment and education, wardens, associate wardens for treatment, and other administrators both at the central office and institutional levels. The Guide will aid them in the planning and implementation of programs for the mentally retarded and learning disabled either in separate institutions, separate programs, or in the general population.

It is also our hope that the Guide will stimulate involvement in corrections by staff in other agencies whose mission it is to serve the handicapped, whether incarcerated or in the free community. Such agencies include State Mental Health and Retardation Agencies, Developmental Disabilities Planning Councils, Advocacy and Protection Agencies, Associations of Retarded Citizens, Associations for Children and Adults with Learning Disabilities, and legal aid organizations. Our research revealed that most of these agencies are currently uninvolved with handicapped persons in corrections--or just marginally so.

Although we anticipate that the Guide will be of great interest to correctional educators, it is not intended as a teacher's guide. The Guide describes the components of appropriate programs that are in compliance with the law and in line with sound special education and correctional practices. It does not deal with teaching strategies, methodologies, specific curricula, or educational technology. Our assumption is that if correctional administrators make sure that there are adequate programs and facilities and that fully certified instructional staff is hired, such staff will know how to do the job and find the specialized professional literature to guide their efforts.

The Guide is meant to be a practical tool to stimulate and guide program initiation or improvement, interagency agreements, and the cooperation of community services groups. Lack of knowledge and lack of resources have been major obstacles to the implementation of special programming for mentally retarded and learning disabled adult inmates. The specific objectives and content of the Guide have been designed to assist correctional administrators in overcoming these obstacles.

The Guide seeks to fill in the knowledge gap with concise summaries of the relevant literature and research on the prevalence of these handicapping conditions among the adult inmate population, the symptoms of these conditions, and the problems they cause for the offender in the criminal justice system. The Guide further summarizes the legal issues involved, with emphasis on the state and federal legal mandates that apply in corrections as well as in general society. It further describes existing program models as well as policies and procedures, processing and

diagnostic instruments, staff training, and standards that can be adapted to individual agency needs. Finally, it seeks to assist correctional administrators in narrowing the resource gap by familiarizing them with agencies and organizations that can provide services and potential funding sources.

METHODOLOGY

A number of activities were conducted in order to develop this Guide. Literature and research in the fields of special education, mental retardation, and learning disability were identified and reviewed for their relevance to corrections. This activity has resulted in information spread throughout the document as well as in a bibliography, abstracts of key documents, and a glossary of technical terms. Extensive legal research was undertaken to identify applicable state and federal law. Case law was reviewed to gauge its relevance for correctional agencies.

In our search for documents and subject-related information, we contacted the adult state correctional agencies, the state education agencies, and professional agencies or organizations serving the handicapped in the fifty states and the District of Columbia. Information was received from a total of 32 Departments of Corrections, 26 State Education Agencies, 17 State Advocacy and Protection Agencies, 39 Developmental Disabilities Planning Councils, 26 State Mental Health Agencies, 9 Associations of Retarded Citizens, and 10 University Affiliated Facilities. (See Appendix A for a chart of the respondents.) Their responses ranged from a note telling us that they currently have no special education programming or other involvement with adult inmates to sending us a variety of documents, e.g., policies and procedures for special education, monitoring reports, process guides, budgets, annual reports, and program descriptions. It should be noted that the sole purpose for contacting these agencies was to uncover good and replicable programs, processes, and practices.

The responses and accompanying documents were analyzed with several purposes in mind. First, they clarified the needs of the field, issues involved, and available resources. Based on this information, the Guide could focus on target areas of need as well as useful available information. Second, they served to identify good programs and practices for inclusion as models in the Guide. Third, having completed the documentary analysis, a research team selected sites for visitation.

Two states, Maryland and Michigan, were chosen for a study of the statewide special education delivery system in adult corrections and the interactions between the Department of Corrections and the State Education Agency. In Maryland, all institutions as well as the central offices of the two state agencies were visited. In Michigan, the Reformatory in Ionia and Huron Valley Women's Facility were selected for on-site visits besides the two state agency central offices.

Other states were selected for more specific purposes. Texas, Georgia, South Carolina, California, and Nebraska were targeted for review of their special programs/units for mentally retarded offenders.

Subsequently, the research team visited the Beto I and Gatesville Units in Texas, Georgia State Prison, Stevenson Correctional Institution in South Carolina, Camarillo State Hospital in California, and Lancaster County, Nebraska. Three institutions in Illinois--Vienna Correctional Center, Shawnee Correctional Center, and the Hardin County Work Camp--were selected for study of the integration of special education students in mainstream vocational education programs. Altogether, 21 institutions in 7 states were visited by a research team, and interviews were held with a total of 177 staff and 46 inmates. (See Appendix B for a chart including the number and type of staff and inmates interviewed on site.) Technical consultants with expertise in special education and the specific handicapping conditions covered by the Guide were involved in all phases of the project, including the field work.

The draft document underwent an extensive review process. Each section was critiqued by an expert in the relevant area. The draft in its entirety was then reviewed by a committee, consisting of special and correctional educators as well as chief correctional administrators. A final review was performed by the funding agency, the NIC. Segments of the draft were utilized in three training seminars conducted by the American Correctional Association (ACA) under another grant from the NIC. This application had two immediate benefits: it generated further revisions and it confirmed the Guide's utility as a training tool.

SUMMARY RESEARCH FINDINGS

The research revealed the following current key problems concerning programming for adult inmates with retardation or learning disability:

- Despite a clear legal mandate, few adult state correctional agencies have started to implement Special Education in accordance with federal laws such as the Education of the Handicapped Act (EHA), and Section 504 of the Rehabilitation Act, or relevant state laws;
- Few agencies were found to be in full compliance with the law;
- Very few agencies serve handicapped inmates above the age of 21;
- Persons with retardation or learning disabilities are overrepresented in corrections as compared with society at large;
- They are also overrepresented in protective custody and administrative or punitive segregation as compared with the inmate population at large;
- This handicapped population is also underrepresented in academic, vocational, and prison industry assignments;
- They have serious unmet needs, experience abuse, and create special problems in the correctional environment;

- Resources to serve this population are either lacking or underutilized;
- Interagency agreements and cooperation are rare;
- Knowledge among correctional staff in terms of the symptoms and programming needs of the mentally retarded and learning disabled is very limited, and interagency knowledge sharing is scarce;
- Research in this area is also very limited; and,
- Without adequate services, this population is found to recidivate more often and sooner than the ex-offender population at large.

The research uncovered many problems, unmet needs, and a serious lack of programs and services. However, not all of the research findings were of a negative nature. The research also discovered a number of good programs, sound practices, and creative interagency cooperation. The following are the key positive findings:

- Some good, specialized programs for this population do exist and can be used as "models" for adaptation by other jurisdictions.
- EHA can be fully implemented in adult corrections despite the fact that it was drawn up with the public school population in mind.
- Interagency agreements and cooperative models exist that indicate a great potential for further development of programs and services for the incarcerated handicapped.
- Appropriate, special programs for the mentally retarded and learning disabled can and do make a difference both before and after release from an adult correctional facility.

Interviews with many correctional staff representing a number of different disciplines indicated that the needs and problems of inmates with handicapping conditions are recognized and that there is both concern and willingness to do more than is presently being done for this population. Currently, however, adult correctional agencies lack knowledge, resources, and support to facilitate adequate and appropriate programming. Furthermore, correctional administrators are overburdened by problems such as overcrowding that take precedence.

There are no simple solutions to the programming needs of the handicapped in corrections. The problems are multiple and they require multi-faceted solutions. The problems of these populations become acute in corrections; yet, they are not correctional problems alone. The responsibility for the handicapped is by law divided among several state agencies, i.e., Education, Mental Health and Retardation, Advocacy and Protection, Vocational Rehabilitation, Employment Security, and Private

Industry Councils. Solutions can only be found through further interaction and cooperation among these agencies. However, corrections must take the lead by initiating stronger advocacy and outreach efforts, based on a more thorough knowledge of the problems and needs resulting from retardation and learning disabilities among inmates and a thorough assessment of the scope and severity of these problems and needs within their own correctional institutions.

Our research also revealed what might well be the consequences of continued neglect of the needs of the handicapped inmate population. On the institutional level, where abuse and victimization of this population by other inmates are common and where inmates with retardation are known to commit many rule and disciplinary infractions, the cost of neglect may well result in the need for increased, costly security and supervision measures. Agencies that do not comply with state and federal law may anticipate costly litigation and the potential of withdrawal of state and federal funding. The latter may involve federal funding not only for corrections but for other state agencies as well. This has already occurred in Michigan, where the state was threatened with withdrawal of all federal support for education unless the State Education Agency made sure that EHA was implemented in corrections as well as in the public schools.

Society at large also has a vested interest in providing these persons with the programs and services necessary to eventual personal and economic independence as well as to lawful behavior. It is well known that handicapped persons currently being released from prison are unlikely to survive independently. They constitute a drain on welfare, medical, and unemployment entitlements beside being even more likely than their non-handicapped peers to recidivate within a short period of time.

USES OF THE GUIDE

The Guide has been structured to serve as a resource manual, summarizing information and directing readers to further information and assistance in areas that were identified as of key importance by practitioners in the field, the NIC, and the literature. These areas are the prevalence, symptoms, and problems of mental retardation and learning disabilities; key research findings; legal issues; EHA implementation; programming models and alternatives; standards and policies for treatment and programming; and resources and their utilization. The Guide makes no attempt to be prescriptive in the sense of advocating any one approach, program model, or philosophy of treatment.

We recognize that the success of any correctional program depends to a great extent on its appropriateness in a particular institutional setting as well as agency setting. Furthermore, the planning, development, and implementation of a program by inside staff usually lead to a sense of commitment and pride that contribute to program success. The Guide therefore seeks to provide correctional administrators and other staff with basic information, advice, examples of programs and procedures, and linkages with resources that can be utilized by in-house staff for a number of purposes, while avoiding blueprints or boiler-plate approaches. The

programs and procedures selected for inclusion in the Guide represent sound practice without claiming to be either the best or only way to go.

Each section of the Guide has been designed to stand alone. For example, the section on legal issues may be the only one read by an agency attorney asked to look into an agency's compliance with Special Education legislation. This attorney may not wish to take the time to read about the actual processes involved in implementing Special Education in a correctional classroom. Although there are cross references among sections, there is no necessity to read the sections in sequence. This approach is also meant to facilitate the Guide's use as a quick reference source after an original reading. This approach, however, has entailed some repetition of information in several sections.

The Guide is also intended to serve some additional functions. It could be used for staff training of correctional officers, treatment staff, and educators. It could further help correctional administrators make their case when soliciting support from the legislature, other state agencies, and private assistance organizations in the community. Finally, our hope is that the Guide will stimulate further interagency information sharing and knowledge transfer. For that reason, we have included listings of programs, agencies, associations, and organizations that have information and resources to share. To get additional information requires little more than a telephone call or a letter. Furthermore, many of the useful documents collected as part of the preparation of this Guide have been deposited with the NIC Information Center and can be obtained from there by letter or telephone request.

Finally, the Guide is meant to be a stimulus to action as well as interaction. If, through this publication, new programs are generated and old programs are upgraded so that incarcerated persons with retardation and learning disabilities receive more and better programs, then Programming for Mentally Retarded and Learning Disabled Inmates: A Guide for Correctional Administrators has reached its overall goal.

Section 2

MENTALLY RETARDED AND LEARNING DISABLED ADULT OFFENDERS: DEFINITIONS, INCIDENCE, AND PROGRAM NEEDS

The definitions and symptoms of mental retardation and learning disabilities are summarized. Key studies are reviewed on the incidence of these handicapping conditions among adult inmates. The problems encountered by inmates with learning disabilities or mental retardation in the correctional setting are viewed in their relationship to the inmate's own personal rights and to potential institutional liability. Finally, the benefits of habilitative programming are summarized.

INTRODUCTION

In order to plan and develop appropriate programs and services for mentally retarded and learning disabled inmates, correctional staff need to have answers to three basic questions: who, what, and how? Who represents these categories of inmates in terms of numbers and types of handicapping conditions? What are their characteristics in terms of intellectual and behavioral factors? How can their needs be determined and services provided to meet these needs?

Each of these questions has been addressed in the technical literature, in agency documents collected through the research that was conducted to produce this Guide, and through the public information provided by a variety of advocacy and protection organizations. This section presents a selection and synthesis of this information. It provides definitions of the handicapping conditions and descriptions of symptoms associated with these. It also discusses the incidence of these handicapping conditions among adult inmates. It presents the commonly experienced problems encountered by offenders with handicaps in the criminal justice system generally and in correctional institutions specifically. Finally, the section summarizes the key elements of needed and appropriate programming for these individuals based on contemporary knowledge and practice.

DEFINING THE HANDICAPPING CONDITIONS

Specific terminology used to describe and define handicapping conditions in accordance with the most widely accepted common usage today needs to be adopted by all correctional agencies and used uniformly in agency plans, policies and procedures, guidelines, and forms. Furthermore, correctional agencies need to be aware of the specific, and sometimes variant, terminology and definitions used in federal and state law. This is essential for two reasons: (1) to make sure that the agency is in compliance with the law in terms of the rights and the services legally mandated for various groups of handicapped individuals; and (2) to determine eligibility for funding under various federal and state programs.

Currently, some confusion and discrepancies exist, not only between individual state law definitions and those in federal law, but also among several different pieces of federal legislation. The subsequent discussion describes the most common current definitions of "mental retardation" and "learning disability" adopted by the principal professional organizations in these two fields, and in general compliance with federal law. Unless these are in serious conflict with state adopted terminology, these should be employed uniformly throughout correctional agencies.

Defining "Mental Retardation"

The American Association on Mental Retardation (AAMR)[1] definition of "mental retardation" is currently the one accepted by courts, legislatures, and other professional organizations.[2] It should be adopted by correctional administrators as well. It reads: "Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period."[3]

It is important to notice that this definition consists of three separate elements, all of which need to be manifested before a person is determined to be "mentally retarded" in a technical and legal sense. First, "subaverage general intellectual functioning" must be determined by an intelligence test. Usually, to be considered mentally retarded, a person should function at least two standard deviations below the norm of 100. In other words, the person's IQ should be below 70.[4] Second, for a person to be found mentally retarded that person should also show impairments in adaptive behavior, i.e. significant limitations in "meeting the standards of maturation, learning, personal independence, and/or social responsibility that are expected for his or her age level and cultural group, as determined by clinical assessment and, usually, standardized

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[1] Formerly known as the American Association on Mental Deficiency (AAMD).

[2] James W. Ellis and Ruth A. Luckasson, "Mentally Retarded Criminal Defendants," The George Washington Law Review 53 (March-May 1985): 421. "Mental retardation" is today the accepted term of usage and should replace any other terms previously in vogue, e.g., "mental deficiency," "imbecility," "idiocy," and "feeblemindedness." Such labels are considered inappropriate.

[3] H. Grossman, ed., Classification in Mental Retardation 1 (Washington, DC: American Association on Mental Retardation, 1983).

[4] The AAMR Classification Manual states that the upper limit should be considered a guideline and could be extended upward to an IQ of 75 or even more. The reason for this is that IQ tests are frequently not very reliable. This is particularly true in terms of the group administered tests commonly used in corrections with incoming inmates. Furthermore, borderline mentally retarded persons may be in need of specialized programming on a par with those whose IQs are below 70.

scales."[5] Third, the AAMR definition requires that the disability must have become manifest before maturation, usually interpreted as before age 18. Correctional administrators need to distinguish, however, between eligibility of inmates in accordance with legal requirements for funding and other purposes, and eligibility for agency programs for special needs populations. For example, the Texas Department of Corrections provides special programs for inmates with an IQ up to 74 and regardless of age; however, the TDOC cannot collect EHA federal funds for Special Education for this population, except for those who are age 21 and under and who fit the criteria established for different handicapping conditions included in that law.

Degrees of Mental Retardation

According to contemporary usage, mental retardation is divided into four categories reflecting the degree of retardation, as indicated in Exhibit 2.1.[6]

Exhibit 2.1
Degrees of Mental Retardation

Degree	IQ	Percent in Mentally Retarded Population
Mild	51-69	89.0
Moderate	36-50	6.0
Severe	21-35	3.5
Profound	under 20	1.5

It has been estimated that 3 percent of the general population suffers from mental retardation, and of these 89 percent fall into the "mild" category.[7] Most inmates with retardation (88 %) also fall within the "mild" category, although there are some who fall within the "moderate"

[5] Grossman, Classification Manual. For a further discussion of assessment tools and standardized adaptive behavior scales, see Section 4.

[6] Previously commonly used terms such as "educable" and "trainable" still persist in some state law. However, the degrees listed in Exhibit 1 should be employed since they are commonly accepted in federal law in court.

[7] Association for Retarded Citizens, "ARC Facts" (Arlington, TX: Association for Retarded Citizens, 1987).

range.[8] Persons with severe or profound retardation are either unlikely to commit crime or are diverted out of the criminal justice system at an early stage.

Persons with mild retardation are often hard to identify since their handicap is not very noticeable. Their handicap is frequently not detected during infancy or early childhood. Mildly retarded persons may have some sensorimotor impairment and often need assistance with stressful problems. Yet, it is important to realize that they can--with appropriate assistance--perform a number of tasks. They can usually hold "regular" jobs and need not be confined to sheltered workshops. They can generally take care of themselves. Academically, they can progress to at least the 6th grade level.

Moderate mental retardation is more easily identifiable. It usually manifests itself in early childhood in delayed motor development. Persons with moderate retardation can usually learn to take care of themselves and do simple tasks, although they have difficulties with more complex tasks. They can usually progress to the third grade level. They need training for community living and often do best in sheltered workshop employment.

Persons with severe retardation often show marked delays in motor development early in life and are severely hampered in their communications skills. Although they can be taught through extensive training to handle daily self-help tasks, they usually need continual supervision and assistance. The profoundly mentally retarded usually require nursing care and constant supervision and often exhibit additional impairments and abnormalities. They require extensive training to learn basic self-help tasks and, at best, handle structured work activities, not jobs.

Causes of Mental Retardation

Mental retardation cuts across race, education, social, and economic background. It can occur in anyone. It is, however, more frequent among the lower socio-economic levels of society,[9] the same levels that contribute to a disproportionate percentage in the offender population. This is related to the etiology of mental retardation. Over 250 causes of mental retardation have been identified; yet, for three-fourths of all cases, the cause remains unknown. Hereditary factors account for a very small proportion, as do genetic irregularities, e.g., the chromosomal abnormalities that cause mental retardation in persons suffering from Down's syndrome. More common are problems during pregnancy and at birth,

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[8] Miles B. Santamour and Bernadette West, Retardation and Criminal Justice: A Training Manual for Criminal Justice Personnel (Washington, DC: President's Committee on Mental Retardation, 1979).

[9] A recent (1986) report issued by the Michigan Developmental Disabilities Council indicated: (1) a higher proportion of Blacks and Native Americans have mental retardation than other ethnic/racial groups; and, (2) about 25 percent of persons with developmental disabilities come from families with incomes below the poverty level.

many of which could have been prevented through appropriate pre-natal and other health care. Childhood diseases such as measles and meningitis can also cause mental retardation. It can also be caused by head trauma, lead poisoning, malnutrition, and a host of other environmental, disease-producing conditions more likely to exist in disadvantaged areas. Some authorities have concluded that perhaps as much as fifty percent of all mental retardation could be prevented through better medical care, improved nutrition, and environmental protection.[10]

Distinction Between Mental Retardation and Mental Illness

It is important to make a clear distinction between "mental retardation" and "mental illness." In technical terms, "mental illness" is a disease, whether temporary, periodic, or chronic. "Mental retardation," however, is a developmental disability, not a disease. A person suffering from mental illness may recover. Mental retardation, however, is a permanent impairment limiting the afflicted person's ability to learn. Many persons with mental retardation can, through special programming and assistance, be taught to learn more and cope better; the condition, however, is of a permanent nature.

The two conditions are, of course, not mutually exclusive. There are many inmates in correctional institutions who are dually diagnosed--mentally ill and mentally retarded. They frequently lack adequate services since mental health services often lack expertise or special programs suitable for persons with retardation, and mental retardation programs usually exclude or lack the expertise to deal with mental disorders. Depending on the number of dually diagnosed and the severity of their conditions, correctional agencies may require a special program or unit for this population.[11]

Mental Retardation under Federal Law

Mental retardation is acknowledged as one of several developmental disabilities covered by federal law. "Developmental disability" is a fairly new term that is increasingly employed. It is a broader term than "mental retardation" and should not be used interchangeably although this is sometimes done in the belief that "developmental disability" has fewer negative connotations.

"Developmental disability" is defined in P.L. 98-527 as amended, the Developmental Disabilities Assistance and Bill of Rights Act, as "a severe, chronic disability of a person which

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[10] Association for Retarded Citizens, 1987.

[11] A special "crisis" unit for mentally retarded/mentally ill inmates has been established at the Georgia State Prison in Reidsville. It is described in Section 5.

- Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- Is manifested before the person attains age twenty-two;
- Is likely to continue indefinitely;
- Results in substantial functional limitations in three or more of the following areas of major life activity:
  - self-care
  - receptive and expressive language
  - mobility
  - self-direction
  - capacity for independent living
  - economic self-sufficiency; and,
- Reflects the person's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

Mental retardation is included as one of many disabilities covered by this Act. The term "developmental disabilities," however, also includes many other chronic disabilities that may impair development. These include visual and hearing impairments, neurological impairments (such as cerebral palsy and epilepsy), and learning disabilities.[12]

"Mental retardation" as defined by the AAMR is further included as one of the handicapping conditions covered by the Education of the Handicapped Act (EHA). It is also one of the handicapping conditions for which special allocations are made under the Vocational Rehabilitation Act of 1973, as amended; the Carl D. Perkins Vocational Education Act; the Women's Educational Equity Act; the Job Training Partnership Act; and the Tax Reform Act of 1986 (Targeted Jobs Tax Credit Program).[13] Many, but not all, states have also adopted this definition in their statutes.

Describing "Learning Disabilities"

"Learning disabilities" are difficult to define, and there is no single, all-inclusive definition of the term. "Learning disabilities" is an umbrella term that refers to a range of problems resulting from difficulties in the way information is received and transmitted to the brain. Learning disabilities are usually associated with neurological disorders, i.e., physical disorders of the brain or nervous system. Learning disabled persons are almost always born with their disabilities, although most do not become apparent until a person reaches school age and

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12 For further information concerning P.L. 98-527, see Section 3.

13 For further detail, see Section 3 and Section 10.

has to learn to read, write, and compute. Like mental retardation, learning disabilities tend to be permanent conditions. Persons can, however, learn to develop strategies around them, and with proper assistance overcome many of the obstacles specific disabilities create. Furthermore, secondary symptoms such as emotional and behavioral disorders can be overcome with appropriate treatment, training, and understanding.

Learning disabilities can perhaps best be understood in the context of the processes involved in learning. These involve (1) Input--information received to be recorded in the brain; (2) Integration--information organized and comprehended by the brain; (3) Memory--the brain's capacity to store and retrieve information; and (4) Output--communicating the information stored in the brain to people or the environment. A learning disability is the result of neurological malfunction that interferes with one or more of these processes.[14]

EHA acknowledges "specific learning disabilities" as one of the handicapping conditions the Act is intended to address through mandating and financially supporting Special Education and related services. The Act defines it as "a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia."[15]

EHA also makes a distinction between "specific learning disabilities" and other handicapping conditions, some of which may exhibit the same or similar symptoms: "Such term does not include...learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage."[16]

The distinction between mental retardation and specific learning disabilities should be noted. The former is the result of an overall intellectual slowness; the latter is the result of an impediment that causes learning problems despite normal intelligence. Learning disabilities are suspected when a person with an IQ in the normal or above range functions two or more grade levels below the norm for that person's age and social environment. It is well known, for example, that both Thomas Edison and Albert Einstein suffered from severe dyslexia, a type of learning disability.

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[14] Larry B. Silver, M.D., "Attention Deficit Disorders: A Booklet for Parents" (No publisher, n.d.).

[15] The Glossary appended to this Guide includes a number of terms used to describe specific learning disabilities.

[16] It should be noted that mental retardation, visual, hearing, and motor handicaps are covered by the Act as other conditions coming within its scope.

Many inmates function well below the norm for their age and completed grade level; yet, not all of them are therefore learning disabled. Because of severe cultural, educational, and economic deprivation--and frequent encounters with the law as juveniles--many of them have simply lacked consistent schooling and have fallen behind. They should be considered "learning disadvantaged" unless they have been found to suffer from specific learning disabilities through in-depth assessment.[17] They should be the subjects for compensatory and remedial education rather than Special Education.[18]

Finally, caution is advised when labeling in general as it provides no instructionally relevant information. The only purpose for diagnosing and labelling adult inmates in terms of handicapping conditions is to provide them with the special programs and assistance they need to become independent and better functioning individuals. Classification is utilized to draw on state and federal resources mandated for specific eligible populations with handicaps. All correctional staff must be trained to make sure that they and other inmates under their charge understand that the mentally retarded and learning disabled are persons first, with strengths as well as weaknesses. They must acknowledge the fact that with appropriate programs and services and a positive "can do" attitude on the part of staff, inmates with handicaps can learn to overcome many of the limitations they have suffered from and become contributing, well functioning citizens.[19]

SYMPTOMS ASSOCIATED WITH MENTAL RETARDATION AND LEARNING DISABILITIES

Learning disabilities have been labeled the "hidden handicap," and mild mental retardation could also be so labeled. Persons with these handicapping conditions cannot be recognized by physical appearance, but by their failure to achieve the levels of social maturity and intellectual development expected by their non-handicapped peers. Because of past experience with prejudice and ridicule, many handicapped offenders have also become adept at covering up, making it even more difficult for correctional staff to detect or even suspect that they suffer from mental

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[17] For a discussion of assessment, see Section 4.

[18] The learning disadvantaged under the age of 21 are covered in federal law under Chapter I of the Educational Consolidation and Improvement Act of 1981. (For further detail see Section 10.)

[19] The following sources--described in the Abstracts section of this Guide--are recommended for further readings on mental retardation and learning disabilities: C. Michael Nelson, Robert B. Rutherford, Jr., and Bruce I. Wolford. Special Education in the Criminal Justice System. Columbus, OH: Merrill Publishing Company, 1987; C/SET Curriculum Training Modules. Washington, DC: U.S. Department of Education, Office of Special Education, 1984; J.A. McDonald and G. Beresford. Mentally Retarded Adult Offenders in the Criminal Justice System: A Training Program. Austin, TX: Texas Council on Crime and Delinquency, 1984; Miles B. Santamour and Patricia S. Watson, eds. The Retarded Offender. New York: Praeger, 1982.

retardation or severe learning disabilities. These conditions, however, if they are not detected and remedied, often lead to low self-esteem and destructive behavior.

It is therefore essential that all who work with inmates--line correctional staff as well as classification, treatment, and educational staff--are aware of the symptoms commonly associated with these disabilities.[20] Many of the characteristics described below are common among offenders and do not necessarily reflect diagnosable, handicapping conditions. However, a person who has a constellation of these characteristics and exhibits them frequently and persistently should be considered potentially handicapped and referred for evaluation and assessment by appropriate treatment and education staff.

Common Characteristics of Mental Retardation

The following characteristics have been identified as common among persons with mental retardation:[21]

- Does not communicate at age level;
- Has short attention span and memory;
- Has immature social relationships;
- Is over-compliant;
- Has poor time sense;
- Has difficulty with simple tasks;
- Does not understand consequence of actions.

Common Characteristics of Learning Disabilities

Since learning disabilities cover such a broad and somewhat diffuse area of handicaps, the characteristics are multiple and varied. Many of these characteristics are the same as provided above for mental retardation; however, it should be recalled that the two handicapping conditions are different in that learning disabilities are not caused by low intelligence but by disabilities in processing information. The following are among the most common characteristics of the learning disabled:[22]

- Is hyperactive;
- Has perceptual motor impairment;

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[20] For further suggestions in terms of staff training, see Section 6.

[21] Adapted from J.A. McDonald and G. Beresford, Mentally Retarded Adult Offenders in the Criminal Justice System (Austin, TX: Texas Council on Crime and Delinquency, 1984).

[22] Dinah Heller et al., Recognizing and Interacting with Developmentally Disabled Citizens: A Training Guide for Law Enforcement Personnel (New York: Developmental Disabilities Project; New York University Department of Human Services and Education, July 1986).

- Lacks emotional control;
- Has poor general coordination;
- Has disorders in attention;
- Is impulsive;
- Exhibits poor memory;
- Shows difficulty in specific areas of reading, writing, spelling, or arithmetic;
- Exhibits other neurological signs;
- Has problems in directionality.

It should also be pointed out that both learning disabilities and mental retardation--especially if undetected and/or untreated at an early age--are often associated with serious emotional disturbance as well as serious behavior disorders.[23] Furthermore, these conditions are frequently compounded by drug and alcohol abuse among the offender population.

Most of the current studies of learning disabilities focus on children and adolescents. However, with growing alarm about the high levels of functional illiteracy among the U.S. adult population, attention is shifting to adults with these disabilities. It is increasingly felt that a considerable proportion of the nation's estimated 23 million functionally illiterate adults may indeed suffer from learning disabilities that were neither detected nor treated at an earlier age. There is as yet very little research or literature in this area. It is known, however, that the symptomology changes in adults. For example, whereas serious problems in the gross motor area frequently dissipate with age, problems such as lack of attention, concentration, and learning achievement persist.[24]

INCIDENCE OF MENTAL RETARDATION AND LEARNING DISABILITIES AMONG THE ADULT INMATE POPULATION

A crucial question for correctional administrators is how many mentally retarded and learning disabled inmates are needed in order to plan programs? Also, are there any national guidelines based on existent incidence studies?

In recent years there has been a growing number of studies on learning disabled inmates. The most comprehensive study was supported by an NIJ Grant (#81-15-CS-0014) to Lehigh University, "Findings and

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23 "Seriously emotionally disturbed" is defined in EHA as (1) an inability to learn which is not explained by intellectual, sensory, or health factors; (2) an inability to build or maintain satisfactory inter-personal relationships with peers and teachers; (3) inappropriate types of behavior or feelings in normal circumstances; (4) general pervasive mood of unhappiness or depression; and, (5) a tendency to develop symptoms or fears associated with personal or school problems.

24 Ingo Keilitz, B.A. Zaremba, and C.J. Broder, "The Link Between Learning Disability and Juvenile Delinquency: Some Issues and Answers," Learning Disabilities Quarterly, 2 (1979): 2-11.

Recommendations of the National Study on Learning Deficiencies in Adult Inmates." Completed in 1983, this study summarizes the findings from three institutions in each of the states of Louisiana, Pennsylvania, and Washington. A sample of over a thousand inmates (male and female) was drawn.

The subjects were administered an academic achievement test and individual intelligence test. Data indicated that the average inmate left school after tenth grade but was performing more than three years below this level. At least 42 percent of the inmates had some form of learning deficiency and of the 42 percent (approximately 420 inmates), 82 percent had specific learning disabilities. The average IQ of inmates sampled was below national norms, and the average I.Q. of learning deficient inmates was dramatically lower than the average I.Q. of non-learning deficient inmates.[25] Such figures attest to the enormity of the problem and the need for remediation.

Incidence Studies and Their Limitations

It is generally agreed that the incidence of mental retardation and learning disabilities is much higher in the inmate population than in the U.S. population at large, where mental retardation has been estimated to afflict 3 percent and learning disabilities close to 5 percent.[26] Despite numerable incidence studies, however, there is little agreement in terms of what is the incidence. Furthermore, the ranges within individual studies are so wide as to make the findings of little use to anyone charged with planning policy or programs. Morgan reported a range of handicapping conditions among juvenile offenders from 0 percent to 100 percent, with a mean of 42 percent.[27]

The Morgan study, which has been widely quoted, points out several problems that correctional administrators would encounter if they were to use existing incidence studies as guidelines in their own agency in answering one of the early and crucial questions: For how many inmates with mental retardation or learning disabilities do we need to develop programs? First, an average is of little use when the variations were

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[25] Raymond Bell, Elizabeth H. Conrad, and Robert J. Suppa, "The Findings and Recommendations of the National Study on Learning Deficiencies in Adult Inmates," Journal of Correctional Education 35 (December 1984): 129-37.

[26] The Association for Retarded Citizens uses 3 percent. However, a recent Comptroller General's report (1981) cites a range from 1.3-2.3 percent among the school-age population. The same Comptroller General's report cites the incidence of learning disabilities to range between 1.0-3.0 percent. The Office of Special Education (ED) has estimated the incidence of LD among school children to be 4.49 percent, based on counts of children receiving special education.

[27] D.J. Morgan, "Prevalence and Types of Handicapping Conditions Found in Juvenile Correctional Institutions: A National Survey," Journal of Special Education, 13 (1979): 283-295.

found to be so great. Second, most of the incidence studies have been done in terms of juvenile offenders. The question must be raised whether the incidence figures found among juveniles can be assumed to be the same for the adult inmate population. Third, agencies have used different definitions of the handicapping conditions they have measured, employed a wide range of assessment instruments with varied validity, and have provided tests in different settings and under different circumstances. These tests have been given and scored by staff with different qualifications. Without uniformity in criteria, the results are not comparable.

Cognizant of the limitations of the existing body of incidence studies for the purposes of sound public policy and appropriate social programming, the Office of Special Education and Rehabilitative Services (ED) awarded a grant to the National Center for State Courts to conduct a meta-analytic study, numerically combining the results of existing incidence studies in order to integrate the findings. Included in the analysis were 21 studies of incidence of mental retardation and 22 of learning disabilities among juvenile offenders. Reported prevalence rates in these studies range from 1.7 to 77 percent for learning disabilities, and from 2 to 30 percent for mental retardation. Based on the meta-analysis, the National Center for State Courts reported the weighted prevalence of mental retardation to be 12.6 percent and of learning disabilities to be 35.6 percent of juvenile offenders.[28]

A few departments of corrections have conducted incidence studies. The findings of these studies are shown in Exhibit 2.2.

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[28] National Center for State Courts, The Prevalence of Mental Disabilities and Handicapping Conditions Among Juvenile Offenders (Williamsburg, VA: The Center, 1987. (Draft Final Report)

Exhibit 2.2
Incidence Reported by Departments of Corrections

State Agency	Handicapping Condition	Adult	Juvenile	Incidence
California	"Borderline" or mentally retarded	X		8.9%
Florida	Mentally retarded			7.2%
Illinois	Learning disability[1]	X	X	4.8%
Maryland	Learning disability[2]	X		8.0%
New Jersey	Learning disability	X	X	1.4%
New York	Mentally retarded	X		3.0%
New York	Learning disabled	X		10.0%
Ohio	Educable mentally impaired	X		8.3%
Oklahoma	Mentally retarded	X		10.0%+
Washington	Learning handicapped	X		1.5%
Wisconsin[3]	Mental retardation	X		16.6%
Wisconsin[3]	Mental retardation		X	15.2%

1. Defined as "referred for Special Education"
2. Defined as "in need of Special Education"
3. Study undertaken by Wisconsin Association for Retarded Citizens in state's juvenile and adult correctional institutions.

Conducting an Incidence Study

The figures reported by the Center for State Courts are useful as a basis for developing national policy and initiatives. For the correctional administrator, however, they may be of interest only insofar as they provide a gauge for comparison between an individual agency's incidence figures and a national average. For agency program planning purposes, it is essential that each agency have an incidence study conducted to avoid either over or under estimating the numbers in need of special programs and services.

The following general guidelines should be followed to determine the incidence of mental retardation and learning disabilities among the adult inmate population.

1. **Establish the definition and criteria to be used for each handicapping condition and make sure that these are in agreement with federal and state usage.** If there are discrepancies between the state and federal law, a decision has to be made in light of the purpose of the incidence study as to which definitions/criteria to use. The same information can be gathered regardless of differences between state and federal law, but the data may be used for several established purposes. For example, eligibility for funding under EHA depends primarily on age, but other federal and state laws establish eligibility according to criteria in which age may be irrelevant, e.g., Section 504 of the Vocational Rehabilitation Act.

2. **Develop careful guidelines for the diagnostic procedure and train staff in implementation of these.** This includes the selection of tests to be used, cutoff scores, test group size, qualifications of persons administering the tests, scoring, interpreting, and recording procedures. The selection of instruments to be used should be determined in light of the purpose of the study. Group IQ tests are easy to administer; however, their reliability is not very good. A Department of Correction (DOC) may choose to use a group administered IQ test, such as the revised BETA II, for a gross screening, and then administer an individual IQ test, such as the WAIS-R to those who fall below or near the cutoff point for mental retardation. Tests should be selected to be as "culture fair" as possible and arrangements made for testing non-English and illiterate inmates. Academic tests should also be carefully selected. Again group tests could be used for gross screening, followed by more in-depth tests for those in the "suspect category." Adaptive behavior scales should be selected with care. AAMR and Vineland are the most common, however, the Street Survival Skills Questionnaire (SSSQ), developed by Dan Linkenhoker, has advantages over the more traditional adaptive measures used in corrections.[29] Finally, a clear-cut distinction should be made between testing for incidence and statistical analysis in order to determine numbers in need of special programs and testing for program placement and programming. The latter includes more in-depth testing, further observation in both the educational and living environment, and the involvement of program delivery personnel.[30]

3. **Develop an on-going data collection and retrieval system to continue keeping tab on incidence of handicapping conditions and eligibility for state and federal funding for programs and services.** Revisions in the intake and classification processes as well as modifications in the Offender Based Correctional Information System (OBCIS) should be made as needed. The data on incidence kept over time will not only be more accurate but will serve as a basis for future program and service expansions and modifications.

Relationship between MR/LD and Criminality

Considering the high incidence of both mental retardation and learning disabilities among inmates, the question has naturally been raised as to the link between these and criminality. Miles Santamour believes that there is no evidence that the mentally retarded commit more crime because of their disability. In other words, there is no direct link between retardation and crime. He believes that the high incidence is due to a number of other factors. First, the mentally retarded in corrections usually come from the group of socially deprived in the U.S. They are not only retarded, but they are also poor, undereducated, low-skilled, and overwhelmingly members of minority groups. They are representatives of the

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[29] For further detail on the SSSQ, see Section 5, pg. 11.1

[30] For further detail on evaluation, assessment, and placement, see Section 4.

segment of society that in general contributes to a high percent of the crime rate.

Santamour further points out that persons with mental retardation are more likely than their non-handicapped peers to get arrested, waive their rights, get convicted, and get sentenced to incarceration. They are also less likely to make early parole and therefore serve on the average two to three years longer than other prisoners for the same offense. In addition, they tend to recidivate sooner and more often. All of these factors contribute to the high incidence rate of persons with retardation in corrections.[31]

There is no literature in terms of the linkage between crime and learning disabilities among adults. The link between juvenile delinquency and learning disabilities, however, has been studied by the Learning Disabilities-Juvenile Delinquency Project (LD-JD) conducted by the National Center for State Courts during 1976-1983. Keilitz and Dunivant reported that they found a statistically significant link between the two.[32] They tested three prevalent theories as to the reasons for that link: (1) "The School Failure Theory" which postulates that learning disabilities lead to school failure that in turn lead to disciplinary problems, school drop-out, and delinquent behavior; (2) "The Susceptibility Theory" holds that persons with LD have certain cognitive and personality traits that predispose them to crime, e.g., lack of impulse control, irritability, and inability to judge consequences; and, (3) "The Differential Treatment Theory," which postulates that LD youth are treated more harshly by the criminal justice system in terms of arrest, adjudication, and/or disposition.

The findings of the research confirmed the school failure and the susceptibility theories and part of the differential treatment theory. Keilitz and Dunivant found that LD youth were more likely to be arrested and adjudicated than their non-LD peers. They found no evidence, however, that they were more likely to be sentenced to a correctional facility.[33] Since many adults in corrections have juvenile records and are on the average in their mid-twenties, it is quite possible that these findings are indicative of the adult inmate population as well.

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[31] Miles B. Santamour and Bernadette West, Retardation and Criminal Justice: A Training Manual for Criminal Justice Personnel (Washington, DC: The President's Committee on Mental Retardation, September 1979).

[32] Ingo Keilitz and Noel Dunivant, "The Learning Disabled Offender," in C. Michael Nelson, Robert Rutherford, and Bruce I. Wolford, eds., Special Education in the Criminal Justice System (Columbus, OH: Merrill Publishing Company, 1987).

[33] Their study found that the adjudication rate was 9 in 100 for LD juveniles, and 4 in 100 for their non-handicapped peers, i.e., 220 percent greater for LD youth.

PROBLEMS ENCOUNTERED BY PERSONS WITH MR OR LD IN CORRECTIONS

At every stage of the criminal justice process, mentally retarded and severely learning disabled inmates experience more than usual problems. Some of their problems are directly related to their handicaps, but others are a result of lack of training on the part of criminal justice staff, lack of resources, and lack of interagency cooperation between the system and the organizations that provide services and advocacy on behalf of the handicapped. The following problems have been associated with the mentally retarded; many of these are equally applicable to the learning disabled.

First, they are more likely to get caught in the act and arrested, frequently escalating the situation by strange, panicky, or assaultive behavior. Without adequate training, police officers are unlikely to identify the arrestees as handicapped or to know how to deal with them. Since the handicapped arrestees may not understand their rights, e.g., the Miranda warning, they frequently waive their rights, fail to get bail or release on their own recognizance, and end up in jail during the pre-trial and pre-sentence periods. During court proceedings, they are inept in assisting in their own case preparation, frequently make self-incriminating statements, and have a difficult time speaking in their own defense. As a result, they are at higher risk of standing trial and being found guilty.

Their worst ordeal is the period of incarceration in jail or prison, where they are frequently victimized by other inmates. Our research indicated that this is as true for the handicapped female inmate as for the male. This situation was of grave concern to many of the correctional administrators we interviewed. Frequently cited examples of such victimization were theft of commissary items and other personal belongings; physical and verbal abuse; and coercion to commit illegal acts or break institutional rules on behalf of other inmates. Having a hard time understanding institutional rules, these inmates commit frequent infractions and spend much time in segregation.[34]

Whether due to their own fear of competition or barriers posed by prerequisites, they have limited access to academic, vocational, or prison industry programs. As a result, they are usually confined to menial tasks that do little to prepare them for independent living after release. Having more infractions and less to show in terms of program completion, they often fare badly before parole boards--especially since they are not adept at pleading their own case. The result is, as mentioned earlier, that they tend to serve more of their sentence before release than their non-handicapped peers. These persons also fare worse after release.

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[34] Peter E. Leone, Carolyn Buser, and Mary E. Bannon found that handicapped inmates in the Maryland DOC were sentenced to an average 2.6 years longer and served an average 9 months longer in prison than non-handicapped inmates of similar age and racial composition. They also received an average of 2.4 times as many disciplinary tickets and spent an average of 41 times as many days in segregation as non-handicapped inmates. "Disciplinary Infractions by Mildly Handicapped Adolescents and Their Peers in Prisons: A Comparative Investigation." (Unpublished paper, n.d.)

Having poor skills, little work experience, and no support networks, they recidivate more often and sooner than other ex-offenders.

Their plight in the criminal justice system is, however, being acknowledged by many today. Several states and organizations have developed extensive training programs for criminal justice personnel.[35] Programs for these offenders, however, are still in short supply. Without appropriate programs, these offenders also become problems in corrections. As mentioned earlier, their rate of infractions and stay in disciplinary segregation are high. Furthermore, they represent a considerable percentage of the protective custody residents. Their incarceration and recidivism rates add to the already enormous problems of overcrowding. And last but not least, continued neglect of their rights under various state and federal statutes may involve correctional agencies in further litigation.

IDENTIFIED PROGRAMMING NEEDS

Research, although limited in this area, indicates that habilitative programming can make a difference both in institutional adjustment and post-release success for these inmates. In summarizing the findings of their research, Keilitz and Dunivant write: "The fact that remediation did, under certain circumstances, improve academic achievement and reduce delinquency implies that performance-based educational programs, which use direct instructional techniques, would help increase the educational achievement and decrease the delinquency of adolescents handicapped by learning disabilities. Therefore, this model should be integrated into the curricula of public schools, alternative education programs, training schools, and tutorial projects that service delinquent teenagers with LD."[36]

Throughout his many works on the mentally retarded offender, Miles Santamour stresses that the majority of persons with retardation--especially those with mild retardation, i.e., most of the MR offenders--are capable of learning, albeit at a slower pace. They are also capable of holding competitive jobs in the normal labor market and able to live

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[35] There are two excellent training programs developed for criminal justice personnel: John A. McDonald and Giner Beresford, Mentally Retarded Adult Offenders in the Criminal Justice System. Austin, TX: Texas Council on Crime and Delinquency, 1984; and Dinah Heller, Recognizing and Interacting with Developmentally Disabled Citizens: A Training Guide for Law Enforcement Personnel. New York: Developmental Disabilities Project, New York University Department of Human Services and Education, 1986. These can be used as a basis for training correctional personnel with relatively little adaptation to account for differences among jurisdictions. Much of the information in this subsection of the Guide is based on these two sources.

[36] Keilitz and Dunivant, 135.

independently. The key, however, is appropriate, specialized habilitative programming.[37]

"Habilitation" is defined as "the process of locating the level of the retarded individual's knowledge and skills and the development of a plan which proceeds from that particular level towards higher levels of independence. It is a process which involves the pooling of resources and personnel in an effort to enhance the individual's physical, mental, social, vocational and economic condition to the fullest and most useful extent."[38] Although the terminology is somewhat different in Santamour's definition of "habilitation," the processes and goals are almost identical to those prescribed in EHA, which covers the learning disabled as well. Both include three key components: (1) determination on an individual basis of the handicapped person's level of knowledge, skills, and needs; (2) the development of an individual plan for each client; and (3) pooling of resources and personnel to deliver services. The "programming" to which the title of this Guide refers is to be interpreted throughout as referring to a total "habilitation" concept.

The remainder of this Guide is devoted to helping correctional administrators implement appropriate habilitation programming for mentally retarded and learning disabled adult inmates by providing guidelines, examples, and models. The overall goal is to assist handicapped inmates in reaching their full potential and developing their personal, social, cognitive, and vocational skills so that they can lead independent and lawful lives after release.

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[37] See the Bibliography for a list of Miles Santamour's works and the Abstracts for description of key works.

[38] Santamour, 25.

Section 3

SPECIAL EDUCATION IN CORRECTIONAL FACILITIES
A LEGAL ANALYSIS

The various provisions for inmate claims to special education are analyzed from a legal perspective. The topics include laws requiring special education programs for handicapped individuals, the significance of these laws in prohibiting discrimination against the handicapped, and court rulings that have reasserted the basis for special education programs for inmates.

INTRODUCTION

Legislative changes and conditions of confinement litigation have provided a new legal basis for inmate claims to special education. These changes include the passage of the federal Education of the Handicapped Act, P.L. 94-142, as amended (codified at 20 U.S.C. 1401, et. seq.); parallel state laws; laws prohibiting discrimination against the handicapped in delivery of government services; state law provisions establishing an inmate right to education, of which special education is an element; and court imposed requirements for educational services to remedy unconstitutional prison conditions.

Many practitioners and administrators in the field of corrections are not familiar with the legal requirements for establishing special education programs in their institutions. Such information strengthens their basis for action, which--according to wardens who already have such a program in place--cannot but ameliorate management and organizational conditions. This chapter sets forth the variety of legal principles upon which a claim of inmate right to special education may be based.

Part I defines and discusses the federal and state laws requiring special education programs for handicapped individuals. It includes an analysis of the statutory rights extended through state plans in response to the federal law requirements.

Part II explains the significance of these laws insofar as they prohibit discrimination against the handicapped. It extends to an analysis of inmates' rights (both implicit and explicit) to treatment and education, and of the state provisions which mandate correctional education.

Part III reviews the general education provisions, the consequences of unconstitutional "conditions of confinement," and the court rulings which have reasserted the basis for special education programs for inmates. (See Appendix C for relevant court case citations.)

PART I. SPECIAL EDUCATION LAWS

Background on the Education of the Handicapped Act (EHA)

The history of EHA began in 1966, when lawmakers added Title VI to the federal Elementary and Secondary Education Act, which had been enacted a year earlier. In essence, Title VI created a grant subsidy to help states educate handicapped children. Title VI was replaced by the original Education of the Handicapped Act, which supplemented the grant program with funds for equipment and the construction of facilities. It also added funding allowance for regional resource centers, personnel training, and research and demonstration projects. The legislative package was now complete except for amendments (1974), which added due process protections and the requirements that children be taught in the least restrictive environment possible. In 1975, Congress decided to let states distribute federal moneys to local districts with the understanding that funds would "flow through the agency responsible for compliance" to the local schools.

EHA explicitly includes within its jurisdiction children housed in state or local institutions, 20. U.S.C. 1402(1), (6) and 1423(a). The implementing regulations, 34 C.F.R. 300.2(b)(4), include state correctional facilities among those state agencies responsible for complying with the Act's requirements.[1] The commentary to the regulations note that their requirements are applicable to all state agencies that have delegated authority to provide special education regardless of whether the agency is receiving federal funds under the Act.

For corrections, the entitlement to funding was now in place. Moreover, it was strengthened by a major civil rights statute to protect the rights of the handicapped: Section 504 of the Vocational Rehabilitation Act, which had been enacted two years earlier (1973).[2] Section 504 states that "No otherwise qualified handicapped individual in the United States...shall solely by reason of his handicap be excluded from participation in, be denied the benefits of, or be subjected to

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[1] The 1966 amendments (P.L. 89-950) to the Elementary and Secondary Education Act of 1965 provided that for purposes of determining the amount of state grants, children living in institutions for delinquent children are to be counted by the local school board. Institutions housing delinquent children include those residing in adult correctional facilities. (See House Report No. 1814 August 5, 1966, conference Report No. 2309 October 18, 1966.) The 1970 amendments (P.L. 912-230) enacted the first Education of the Handicapped Act in Title VI of the amendments. Section 602(8) continued the use of the term "public institution or agency having control of a public school" as a "local authority." Section 103 of the amendments authorizes the direct payment of Title I funds to any state or local public agency providing education for delinquent children when the local school district is unwilling or unable to do so.

[2] 34 C.F.R. 104.33. The commentary to the regulations implementing Section 504 cite a number of cases in support of the proposition that there is an individual right to court intervention under the Act.

discrimination under any program or activity receiving federal financial assistance." Thus, Congress had doubly enunciated the guarantee of providing a free, appropriate public education for handicapped children.[3]

The Scope of the Education of the Handicapped Act (EHA)

Age Eligibility. Enacted in 1975, EHA amended federal education laws to establish a grant program to those states which ensure that all eligible school-age handicapped children receive appropriate educational and support services. The definition of eligible school age is left to state policy, except that all children under the age of 18 must be provided a free public education. For those children over age 17 not covered by a state education eligibility law, a state is only obligated to provide a free public education in proportion to those nonhandicapped children being served by the state public school system.[4] Since the state age definition of eligibility for special education sometimes overlaps the age eligibility for incarceration as an adult, corrections agencies should be aware of the specific age eligibility for special education established by their state education laws. (See Exhibit 3.2 on page 46.)

Here, briefly, is an overview of the statutory limits across the states.

- Seventeen states define age eligibility through 21.
- Of these, two states (Michigan and West Virginia) extend the period of eligibility beyond 22, and one (Louisiana) authorizes age extension on a case-by-case basis.
- The remaining states cite eligibility from age 18 through 20.[5]

The state's obligation to provide special education to eligible inmates derives from that part of the Act which specifies that it is the state education agency's duty to ensure statewide compliance. The state

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[3] The enactment of the Handicapped Children's Protection Act of 1986 (P.L. 99-372) establishes that an independent right of action exists under Section 504 by authorizing payment of attorney fees in cases brought under both EHA and Section 504. See *Capello v. D.C. Board of Education*, 669 F.Supp. 14 (1987).

[4] While recent amendments to the Act modified the funding formula cap on the number of children age 18 to 22 whose education will be counted per the proportionality test, these amendments did not affect the states' discretion to serve children in this age group.

[5] The statutory language in six states (Arizona, Connecticut, Illinois, Rhode Island, South Dakota, and Vermont) is somewhat ambiguous. However, in each instance, the U.S. Department of Education (ED) interprets it to mean eligibility for special education through 21. In Alaska and Indiana there is a discrepancy between state education agencies' interpretation and ED's interpretation. (Note: ED's interpretation is for summary reporting purposes only, not for operational oversight.)

educational agency (SEA) must submit a plan that details the policies and procedures that a state will or has taken to meet the law's requirements. With respect to children age 18 through 21, the plan must identify "the extent to which state law or policy does not provide services to nonhandicapped children".[6] The plan must also indicate the policies and procedures used to ensure that all handicapped children are identified, located, and evaluated;[7] also, which agencies are responsible for such activities.[8] The SEA is responsible for informing other agencies of their obligation under the Act.[9]

The Proportionality Requirement. In implementing its responsibilities towards persons age 18 through 21, a state must provide educational services under the Act in two instances.

1. Where state law provides for such education to nonhandicapped persons of like age.

2. If state practice is to provide such education to nonhandicapped children, it must make a similar proportional commitment to handicapped youth as handicapped youth are comprised among all children receiving education.[10] However, if 50 percent or more of the handicapped youth in any age group 18 through 21 of any disability category are provided educational services, all handicapped youth in that age and disability group are to be provided educational services.

This requirement is implemented on a school district by school district basis. The implications of this proportionality requirement for corrections are that Departments of Corrections must provide special education to handicapped inmates under age 18 and for inmates under 18 to 22 to the extent that similarly aged nonhandicapped inmates are provided with education services. Although there is no explicit requirement that an agency keep the necessary statistics to determine compliance with the proportionality test, this is simply because such a requirement is not necessary for local school districts that can readily compare their enrollment figures with other data sources such as school board planning figures, Census data, etc. State DOC's with a correctional management information system should have no difficulty in developing these statistics. Those without such a system may need to develop special analysis methods to determine if they meet the proportionality test.

The Quality of Education. EHA requires that each handicapped child be provided with an individualized education plan (IEP). The SEA is

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6 34 C.F.R. 300.122(d)

7 34 C.F.R. 300.128(a)

8 (b)(2)

9 34 C.F.R. 300.134 and 136

10 34 C.F.R. 300.300(b)

responsible for monitoring other agencies' compliance with this requirement. The IEP for each person must include a statement of present educational performance, a statement of annual educational goals, a statement of the mix of special education and regular educational services to be provided, the dates of service and evaluation procedures, and criteria to be used. All educational options offered nonhandicapped children shall be made available to handicapped children.[11] Similarly, opportunities for ancillary, albeit non-academic, activities (such as debate, band, or chess club in the public schools) of the educational agency (or program) shall be provided for handicapped children.[12] The implication of these requirements for corrections is the potential for outside review of correctional education programs' quality and, hence, some degree of accountability.

A second element of the Act's concern for quality is its provision that the educational staff providing special education or related services to handicapped children be appropriately trained.[13] In addition, it is the responsibility of the SEA to include in its program plan information about two personnel needs: the provision of in-service training and the dissemination of educational materials.[14]

Procedural Protections. EHA makes a number of procedural stipulations which must be adhered to by both the state and its local and intermediate educational agencies. (For the most part, these are also affirmed by Section 504's requirements.) Basically, procedures must be developed for consultation with parents and/or the handicapped individuals themselves in carrying out the Act's requirements.[15] This is listed in Exhibit 3.1. Such procedures must include the right to notice, hearing, and review by an impartial body. There are two principal issues under the Procedural Safeguards compliance area which are relevant to the operation of correctional institutions.

1. All relevant state agencies (i.e., DOC's) must implement procedures consistent with SEA guidelines.

2. Procedures must assure inmates the right to, and availability of, independent evaluations, impartial hearings, appeals, reviews, and the taking of court action if necessary.

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11 34 C.F.R. 300.305

12 34 C.F.R. 300.306

13 34 C.F.R. 300.12

14 34 C.F.R. 300.380

15 34 C.F.R. 300.137

Exhibit 3.1
Procedural Rights of Students and Parents

- Opportunity to examine records
- Right to an independent evaluation
- Right to an impartial due process hearing
- Prior notice and parent consent for initial evaluation and all placement charges
- An impartial hearing officer
- Hearing rights
- Right to a hearing decision appeal
- Right to an administrative appeal, impartial review
- Right to pursue civil action
- Adherence to timelines/convenient hearings and review
- Agreement between parents and public agency about the child's status during due process proceedings
- The availability of surrogate parents, if needed
- The knowledge and right to file a formal complaint

State Special Education Law References to Corrections

An inmate right to special education may also be derived from the establishment of a correctional school district, an institutional facilities school district, other explicit statutory references to DOC provision of special education, or from state assurances to the U.S. Department of Education (ED) that correctional agencies are provided for in the state plan. The following is a review of the states referenced in each of these legal theories.

- Correctional agency school districts are established by statute in six states: Arkansas, Connecticut, Illinois, South Carolina, Tennessee, and Texas. The establishment of a special school district for corrections serves to make the correctional educational program a local educational authority (LEA), thereby placing it under the jurisdiction of both EHA and the state law. Hence, the obligations imposed by federal or state law upon local school districts apply directly to the DOC school district. At the same time, this administrative structure facilitates the distribution of federal funds to the DOC school district.

- Parallel school organizations may also exist in some other states. For example, institutional school districts are created by statute in two states: Utah and Vermont.[16] Assuming their applicability to the DOC, this approach could also serve to ensure federal distribution to institutional schools.

[16] Utah (residential institutions comprise a special school district); Vermont (institutional schools).

However, an appropriate administrative mechanism would be required to be in place for the SEA reporting requirements to be complied with.

- Three states have provisions in their special education laws explicitly establishing correctional agency obligations under the law. These states are Florida, North Carolina, and Ohio. Arkansas law indicates that the DOC school district shares in the SEA distribution of special education funds. In addition, the establishment of the Department of Correctional Education in Virginia explicitly includes special education for inmates among the Department's responsibilities. Indiana's corrections law mandates special education and its governance by the state SEA.

Implied Right to Special Education. As indicated in Exhibit 3.2 on page 45, in addition to explicit statutory provisions creating rights to special education for inmates, implicit requirements for correctional agency obligations are seen in six states' special education laws.

1. Delaware law requires "state agencies" to provide appropriate educational services to the handicapped.

2. Georgia law provides for a special education coordinating committee, which includes the correctional agency without, however, distinguishing between the youth and adult components of the agency.

3. Illinois law requires the DOC to report to the SEA on the number of inmates receiving special education.

4. Iowa law requires that state operated educational programs should include special education for the handicapped.

5. Louisiana law establishes a special school district for special education students in state run programs--presumably a device to ensure eligibility for federal or state funds.

6. Maryland law establishes a planning requirement for the provision of special education within correctional facilities.

State educational agency provision to inmates is authorized in three states in the following manner.

1. In Alabama a "qualified" inmate right to education from the SEA is provided under state law which limits its mandate. Provision applies only when there are legislative appropriations for the SEA correctional education programs.

2. In Missouri the state law requires the SEA to provide educational services to handicapped children not in a school district.

3. In West Virginia the state law references SEA obligations to children in residential institutions.

There are other, more ambiguous, bases for an inmate right to special education in four states.

1. Minnesota law authorizes but does not necessarily mandate special education in state institutions.

2. New Mexico law requires institutions holding detained children to provide special education.

3. Rhode Island law similarly refers to children in state institutions, without defining "children" or "state institutions."

4. Wisconsin law requires that each state-run residential facility (which remains undefined) ensure program availability.

In each of these states, applicability to the correctional context depends on how the law is interpreted by the SEA or the state courts.

State Plan Assurances. In 28 states there is a plan assurance of provision of special education in corrections. Such assurances, which have not otherwise been listed in the state analyses above, are found in the following state plans: Arizona, Idaho, Indiana, Kentucky, Maine, Massachusetts, Michigan, Missouri, New Hampshire, New York, Oklahoma, and Wyoming. The South Dakota special education plan references the state Board of Charities and Corrections without specifically noting the DOC activities. The North Dakota plan provides assurances that the SEA rules apply to "state institutions," without defining whether correctional institutions are included in this term's meaning.[17] Finally, Pennsylvania has a nonstatutory policy under which the Department of Education provides direct services at all correctional facilities.[18]

The Equal Protection Claim. A final legal theory for inmate claims to special education may be based upon the protections of the 14th Amendment's guarantees against denials of equal protection. The core of this theory is that it is a denial of equal protection for a state to provide special education to other institutionalized populations (e.g., children in hospitals, juvenile facilities, or local jails) without providing such services to children in adult correctional facilities. The argument underlying this claim is that distinction among different types of state wards is arbitrary and capricious, i.e., there are few appreciable differences in providing education to one type of inmate but not to another. Among the states where such an equal protection challenge may be based upon state statutory provisions for special education of institutionalized children (excluding prison inmates) are California, Iowa,

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[17] In some states, "institutions" refers only to state hospitals, in others to educational institutions, and in yet others to both.

[18] *Lintz v. Commonwealth Department of Education*, 510 A.2d 922 (1986)

Massachusetts, New York, Oregon, and Utah. To the extent that other states' laws requiring special education for inmates of residential facilities or institutions are interpreted as not to apply to corrections, an equal protection claim may then also arise in these states.

Overall, 37 states seem to statutorily or through state plan assurances, legally, provide a clear basis for inmate claims to special education. In the remaining states, the obligations imposed by EHA are contingent upon a variety of factors, including the proportion of nonhandicapped inmates receiving educational services.

Defining the Right to Special Education

Although federal and state laws limit their application to handicapped children under age 22 (or less in certain states where eligibility is different under the law), the obligations imposed by these laws may be extended to age 23 or 24. The basis for this is when the relevant authority has failed in its obligation to provide special education, as was determined in *Timms v. Metro School District.*[19] Several other court rulings extended the Timms decision when the claims in those particular cases generated the question of compensatory education.[20] The import of these decisions for corrections is that past failures to provide special education to eligible inmates may result in court orders to provide such education to those inmates past the statutory eligibility age. Since across the board orders to provide compensatory education are unlikely, each inmate claim will probably have to be decided on a case-by-case basis with likely benefits--to both institution and inmate--as the deciding criteria.

EHA does not--as such--define the education to be provided under the Act. It merely requires that the education be individualized, appropriate, and provide some benefit. Rulings, consequently, must be offered on a case-by-case basis.[21] What the Act does guarantee is <u>access</u> to an individualized educational program. The validity of the individualized

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[19] In *Timms v. Metro School District*, 722 F.2d 1310 (1983), the Seventh Circuit was the first court to suggest that compensatory education (through extending age eligibility) may be ordered under EHA.

[20] In *Miener v. Missouri*, 800 F.2d 749 (1986), the Eighth Circuit decision was to permit the plaintiff to obtain compensatory education on the basis that prospective costs were not damages under the 11th Amendment, but were merely the costs of education that the school board had wrongfully failed to provide. In *Stock v. Massachusetts Hospital School*, 467 N.E.2d 448 (1984) the Supreme Judicial Council of the state ordered that the period of eligibility for special education services could be extended where wrongfully denied.

[21] In a sample instance, *Board of Education v. Rowley*, 458 U.S. 176 (1982), the court determined that a partially deaf student was not required to be provided with a sign-language interpreter because the student was already receiving some "benefit."

educational program may of course be challenged, although lower court opinions suggest that passing marks and grade advancement may be indicators of validity (Rowley, just cited). To date there have not been any converse rulings that failing marks or grade non-advancement are per se indication of program deficiency or unsuitability. However, a state is free to impose more stringent standards; and if it does so, such standards will be incorporated into the federal law.[22] Hence, state law may impose higher standards upon the DOC in providing support services than does federal law under EHA.

Since parental involvement in the IEP development is one mechanism for implementing the procedural approach to guaranteeing substantive rights, the availability of the right to an impartial third party review of disputes over IEP's is one facet of the Act that may not be relevant to corrections. There may be no responsible parent within easy travel distance; moreover, as is often the case with the offender population, the parent may not display an interest in the child's (18 to 22) welfare. To ameliorate this objection, in specified circumstances, the law provides for the appointment of a surrogate parent. These circumstances include when the parent cannot be identified or located, or where the child is a ward of the state.[23] State law may also provide for the transfer of the parental rights to the student at age 18. The surrogate parent may not be an employee of a public agency involved in the education or care of the child.[24] Given the often isolated location of correctional facilities, surrogate parents are probably best chosen through other public agencies (e.g., public defender agencies or developmental disability advocacy agencies). Alternatively, in some states the DOC may wish to have the court (either the sentencing court or the family court) appoint a surrogate parent.

Other critical elements of the Act's procedural definition of the right to special education are the provisions relating to the evaluation procedures and test materials. Such procedures and materials must not be racially or culturally discriminatory; must be administered by trained personnel familiar with all suspected disabilities; and must be validated for the purposes used, taking into account the specific disability with which the child's learning abilities are affected.[25] Periodic reevaluation of the child is also required, not to be less than every three years.[26] Finally, if the parents/surrogates are unsatisfied, they have a right to an independent educational evaluation and such an evaluation must be considered by the educational program.[27]

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22 *Geis v. Board of Education*, 774 F.2d 575 (3rd Circuit, 1985)

23 34 C.F.R. 300.511(a)(1)(2) and (3)

24 34 C.F.R. 300.511(d)

25 34 C.F.R. 300.530; 34 C.F.R. 300.532

26 34 C.F.R. 300.534

27 34 C.F.R. 300.563

With regard to corrections, the ability of a state DOC to meet these procedural requirements depends on the adequacy of its initial classification procedures. At a minimum, EHA implies that the DOC should implement a system to routinely obtain disability information on incoming inmates. This could be done in several ways: through the assistance of the SEA, through presentence investigation, or by direct contact with local school authorities.

EHA requires that teachers in special education be appropriately qualified. The SEA must set standards for their qualification and implement a training program for teacher development to meet those standards.[28] At least one court has considered the professional qualities of the teachers in ruling on the adequacy of education provided under the Act.[29]

EHA further provides that where noneducational services are necessary for the child to benefit from the special education, those other related services are to be provided by the educational program. These include speech pathology and audiology, psychological services, physical and occupational therapy, recreation, counseling services, and medical services for evaluation purposes.[30] Some courts have extended the health services requirement to include any medical service that can be performed by health personnel other than medical doctors.[31]

Least restrictive environment is defined as mainstreaming with other nonhandicapped students and placing limitations on school imposed discipline for truancy or classroom behavior.[32] In a legal sense, the least restrictive environment is aspirational rather than mandatory and may seem totally incongruent with service delivery in a correctional setting. Correctional administrators need to exercise extreme caution in making decisions whether to mainstream a handicapped inmate in general population programming or remove the handicapped person from the general population. In either case, such decisions should be accompanied by written justifications. The inmate's personal safety could be used as a justification for being removed from the general population. Conversely, mainstreaming cannot be used as a justification for endangering the life of an inmate who might not be safe in the general population.

In all, the intent of these requirements may be met by the DOC through development of new policies and procedures. Some problems remain, however. For example, the DOC may present a unique barrier to special

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28 34 C.F.R. 300.12, .139 and .380

29 *Campbell v. Board of Education*, 518 F. Supp. 471 (1981)

30 34 C.F.R. 300.13(a)

31 *Tatro v. Texas*, 625 F.2d 557 (1980), on remand, 516 F. Supp. 968 (1981), affirmed, 703 F.2d 823 (1983)

32 34 C.F.R. 300.500

education in its reward system that provides opportunity to earn money or good time credits for work rather than educational activities. While in the free world an individual may be able to pursue both work and education, only a few state correctional systems seek to avoid conflicts between the two. The legal significance of this issue is unclear; in the absence of litigation on this issue thus far, present case law does not require the DOC to reduce such barriers.

Remedies for State Failure to Provide Special Education to Handicapped Inmates of Correctional Facilities

There is only one reported court case that deals with an inmate claim of wrongful denial of special education under EHA.[33] The federal district court in this case enjoined the state defendants from failure to provide special education to eligible inmates at county correctional facilities in Massachusetts. Although Massachusetts law was ambiguous over which agency (SEA or Sheriff) is responsible for services, the district held that the SEA had ultimate responsibility until the state courts or the legislation clarified the agencies' respective obligations. Regarding the latter, EHA provides for federal discretionary grants through the SEA to state correctional agencies for special education programs without a state contribution.[34]

The U.S. Department of Education may also act to enforce inmate rights under its regulations, which may also affect other federal educational funds. State plans for vocational rehabilitation funds under Title I of the Rehabilitation Act of 1973[35] must include assurances that the state has specific arrangements for the coordination of services for persons eligible under EHA. The regulations implementing the Vocational Education Act of 1963, as amended, reference the requirements under EHA, which further requires that a minimum of 10 percent of the federal funds provided under the Act be for vocational education of handicapped persons.[36] Hence, DOC failure to comply with EHA may threaten DOC or even SEA state receipt of other federal education dollars.

PART II. GENERAL EDUCATION PROVISIONS

No federal grant program other than EHA requires that states provide education to inmates of correctional facilities. However, federal law does require that states not discriminate against persons in the provision of state services or benefits on the basis of a recipient's disability (Section 504, discussed earlier). And a number of states have legislation with requirements similar to this one. A further vehicle for deriving an

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33 *Green v. Johnson*, 513 F. Supp. 965 (1981)

34 34 C.F.R. 203 *et seq.*

35 29 U.S.C. 701 *et seq.*

36 34 C.F.R. 401.92(a)

inmate right to special education can be based on state constitutional or statutory rights of inmates to treatment or statutory entitlements that mandate educational services. To the extent that such rights are found to be legally enforceable, they will not be school age specific (e.g., under 22). Yet, even here, interpretive legal theories may apply. For example, the courts may interpret the law to infer a legislative intent that inmate education is mandatory for those inmates without a high school diploma or at a low reading level (e.g., below 6th grade).

Discrimination Prohibitions Against the Handicapped

Section 504. Section 504 is the basic civil rights provision with respect to discrimination against handicapped individuals. Therefore, close coordination has been maintained between the regulations attached to both Acts. Section 504 was enacted through the legislative vehicle of P.L. 93-112, the Vocational Rehabilitation Act Amendments of 1973. Although it is brief in actual language, its implications are far reaching. It says: "No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." Education programs in correctional facilities operated by other educational authorities (i.e., SEA) are covered directly by the requirements of federal requirements implementing Section 504. These regulations, called EDGAR, confer a monitoring responsibility upon state education agencies which includes timelines for the correction of any deficiencies identified through monitoring or evaluation. The SEA is required to adopt complaint procedures whenever any state-operated special education program fails in complying with any obligations imposed by P.L. 94-142.

How Section 504 and EHA Coordinate. What are the basic provisions of Section 504 that directly relate to EHA? The following are the major areas in which these two laws correspond.

- EHA requires the development and maintenance of individualized written education programs for all children. The 504 regulation cites the IEP as "one means" of meeting the standard of a free appropriate public education.
- The objectives of EHA and Section 504 are identical with respect to assessment of children, and the regulatory language for both statutes are also identical. Both guarantee against assessment which is racially or culturally discriminatory.
- The Section 504 regulation with respect to a least restrictive environment is nearly identical to the least restrictive regulation in EHA.
- There are sanctions for failure to comply with EHA and Section 504, e.g., the U.S. Secretary of Education has the authority to cut off all funds going to a state or a locality when the Secretary makes a judgment of noncompliance.

The two listings below represent the areas in which the Acts interface and most directly impact correctional special education.

Compliance Issues Under EHA

- Right to Education;
- Identification, Location, and Evaluation;
- Individualized Education Program (IEP);
- Procedural Safeguards;
- Confidentiality;
- Protection in Evaluation Procedures;
- Least Restrictive Environment; and,
- Comprehensive System of Personnel Development.

Compliance Issues Under Section 504

- Programs or activities accessible within 60 days of evaluation;
- Right to free public education regardless of nature or severity of handicap;
- Barrier-free facilities;
- Handicapped students must not be segregated, but educated in regular classrooms to the maximum extent possible;
- Educational institutions must undertake each year to identify and locate unserved handicapped children; and,
- Educational institutions must provide auxiliary aids (e.g., related services) to insure full participation of handicapped persons.

A number of states have laws akin to Section 504's non-discrimination requirement. Connecticut, Maine, Montana, and Oregon forbid discrimination on the basis of handicapped status in educational services using public funds. Laws in Alaska, Connecticut, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Montana, North Dakota, South Carolina, and Virginia forbid discrimination in public services on the basis of handicapped status. Iowa law forbids discrimination based upon handicapped status in state services to the public, which may include inmates among the protected "public" persons.

It should also be noted that the major difference between EHA and Section 504 involves the age of persons covered. EHA applies only to children under age 22, whereas Section 504 has no limitation in its coverage based on age.

There is, admittedly, a limitation upon applicability of Section 504 to the correctional education context insofar as DOC's may not be receiving

federal funds.[37] However, few state DOC's receive no federal assistance at all.

As a benefit factor for DOC's, it is possible that sanctions against SEA's may be triggered for perpetuating discrimination against beneficiaries of the federal fund recipient's program. The argument would be that since the Act specifically mandates provision of special education to inmates, the inmates are beneficiaries regardless of whether they receive service or not. It is not necessary, however, that discrimination against the handicapped be intentional. An otherwise neutral policy which impacts disparately upon a handicapped individual is sufficient violation of the Act.[38]

State Law. A number of states have laws akin to Section 504's nondiscrimination requirement. Clearly, correctional administrators' failure in these states to provide services to handicapped inmates may present serious liability issues. At a minimum, these laws shift the burden of proof to the correctional administrators to justify nonservices to the handicapped as a matter for correctional discretion.

Inmate Right to Education Regardless of Handicapped Status

There is no federal constitutional right to treatment services in the correctional context, including a right to education.[39] Nonetheless, when developing remedies to unconstitutional conditions of confinement, courts have often included orders to improve or implement education and special education programs. On the state level, constitutional or statutory provisions may create an inmate right to treatment. One of the few

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[37] *Grove City College v. Bell*, 104 S.Ct. 1211 (1984) would have barred application of Section 504 to programs other than those directly receiving federal funds, e.g., correctional education programs. However, Congress enacted the Civil Rights Restoration Act of 1987, P.L. 100-259, which overruled this narrow Supreme Court interpretation. Thus, as now amended, the Section 504 bar against discrimination applies to "all of the operations of. . .a department, agency. . .of a state. . .which are extended Federal financial assistance..."

[38] *Alexander v. Choate*, 105 S.Ct. 712 (1985): The provision of different or separate benefits to handicapped persons is required to be as effective (defined as equal opportunity to obtain same results or level of achievement) as those provided nonhandicapped persons. *New Mexico Association for Retarded Citizens v. State of New Mexico*, 678 F.2d 847 (1982): The number of persons affected by a failure to provide services is part of the cost benefit equation. *Southeastern Community College v. Davis*, 442 U.S. 397 (1979): Considerations of cost versus effectiveness (e.g., increased access to education) are to be included in determinations of disparate impact upon the handicapped.

[39] *Rhodes v. Chapman*, 452 U.S. 337, 348 (1981); *Madyun v. Thompson*, 657 F.2d 868 (1981); *Newman v. Alabama*, 559 F.2d 283 (1977); *French v. Heyne*, 547 F.2d 994 (1976); *Nelson v. Collins*, 455 F. Supp. 727 (1978)

appellate courts finding such a right in its state statutes was the Alaska Supreme Court in the case of *Rust v. State*.[40] The court ruled that Rust suffered from a dyslexic condition for which he required treatment, insofar as his condition might be alleviated by medical or psychological treatment. A number of other states have similar constitutional provisions declaring that the aim of prison is reformation and/or humane treatment, which can be argued to create a state right to treatment. These states include Indiana, Montana, New Hampshire, Oregon, South Carolina, Tennessee, and Wyoming. Eight states provide a constitutional right to education, which may similarly be the basis for inmate claims to educational services. These states include Florida, Michigan, Missouri, Montana, South Carolina, South Dakota, Virginia, and Wyoming. None of these provisions explicitly references the corrections context.

There seem to be few reported decisions interpreting these state constitutional provisions in the correctional context, and none involves special or general education. For example, in *State v. Evans*[41] the court ruled against an inmate claim to free college education. Thus, these cases do not forestall inmate litigants from using these provisions as important sources of authority requiring correctional agencies to provide special education to handicapped inmates.

Other states' laws may establish an inmate entitlement (right) to education.

- Arkansas law establishes a right for inmates to a high school education.
- Florida law establishes a Correctional Education Authority with responsibilities for providing education to those in need.
- Illinois, Massachusetts, Nebraska, Nevada, New York, North Carolina, South Dakota (at reformatory only), Texas, and West Virginia laws explicitly establish an inmate right to education.

In the absence of any definitive state high court ruling on the meaning of these laws, the DOC's in these states should be aware of the potential effects from expansive court interpretations of their meaning as inmate entitlements.

The establishment of correctional school districts may be taken to further establish an inmate right to education in Connecticut, South Carolina, and Tennessee. These laws also tend to support an entitlement interpretation in Arkansas, Illinois, and Texas.

Finally, an implicit inmate right to education may be inferred from similar, although more indirect sources, such as the following:

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[40] 582 P.2d 134 (1978)

[41] 506 A.2d 695 (New Hampshire, 1985)

- Alabama (schools for non-high school graduate inmates);
- Idaho (prepare suitable courses for inmates in need, capable of benefiting, and of appropriate custody level);
- Maryland (Correctional Education Coordinating Committee established);
- Minnesota (correctional education plan requirement);
- Missouri (Division of Inmate Education established);
- New Jersey (Office of Educational Services established in DOC);
- Rhode Island (inmate education unit established);
- Virginia (Department of Correctional Education established).

At least one state, West Virginia, provides a statutory right to rehabilitation enforceable through the courts.[42] In contrast, the Washington Supreme Court ruled that its state statute requiring the establishment of rehabilitation programs is too broad in its language to require that any specific program be established.[43] Finally, only one state, Georgia, limits the right of handicapped inmates to an education. This limitation applies, however, only to inmates with serious learning disabilities and is part of the state's parole eligibility requirements calling for inmates to achieve a minimum of a fifth grade education reading level.[44] (See Part III for a discussion of its legality under Parole Related Issues.) Exhibit 3.2 provides a state-by-state overview of the statutory bases for an inmate right to education.

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[42] *Bishop v. McCoy*, 323 S.E. 2d 140 (1984); *Cooper v. Gwinn*, 298 S.E. 2d 781 (1982), involving women inmates

[43] *Aripa v. Department of Social and Health Services*, 588 P.2d 185 (1978)

[44] In practice, the Parole Board was said to only use educational achievement as a positive factor without using its absence to bar parole. Learning disabled inmates demonstrating success in their IEP's, albeit not at the 5th grade level, are similarly given positive weight at parole determinations. Were this not so, the ability of this law to withstand challenge under an equal protection theory would be questionable. Although handicapped status is not a "suspect" category as race is in equal protection cases, a state would be hard pressed to justify exclusion of the handicapped except on a fiscal basis (not sufficient funds). However, the fiscal gains from such a policy are reduced significantly by the applicability of EHA to those handicapped inmates under age 22.

Exhibit 3.2
Inmate Right to Special Education: Statutory and Legal Analysis Chart

State	Explicit Right		Implicit Right		Nondiscrim.	Eligibility
	Gen. Ed.	Spec. Ed.	Gen. Ed.	Spec. Ed.	Handicapped	
AL			Statute			20
AK			Const.			18
AZ				Statute	All	20
AR	X		Sch. Dst.			20
CA				Eq Pro[1]		21
CO						20
CT			Sch. Dst.		Ed All	20
DE				Statute		21
FL	X	X	Const.			18[2]
GA				Statute		20[3]
HI						19[3]
ID	X					20
IL	X		Sch. Dst.	Statute	All	20
IN	X	X	Const.			21
IA			Statute	Statute, Eq Pro[1]	All	20
KS					All	20[3]
KY						21
LA				Statute	All	21[4]
ME						19[3]
MD			Statute	Statute		20
MA	X			Eq Pro[1]	All	21
MI			Const.		All	25
MN			Statute	Statute	Ed All	20
MS						20
MO	X		Const.	Statute		20
MT			Const.		All	18
NE	X					21[3]
NV	X					20
NH			Const. Statute	Statute		20
NJ			Statute			21
NM		X				21
NY	X			Eq Pro[1]		20
NC	X	X		Statute		17[3]
ND					All	20
OH		X				21[2]
OK						18
OR			Const.	Eq Pro[1]	Ed All	20
PA						21
RI			Ed Off, Const.	Statute		20
SC			Sch. Dst., Const.		All	21
SD	X[5]		Const.		All	20
TN			Sch. Dst., Const.			21
TX	X		Sch. Dst.			21
UT			Statute	Statute, Eq Pro[1]		21
VT				Statute		20
VA			Statute			21[3]
WA						20
WV			Const.			22[3]
WI				Statute		20
WY			Const.			20

1. Equal protection claim based on state statutes providing special education to inmates of other state institutions, but not corrections.
2. 12 years of schooling
3. If this age at school opening date, education will continue after birthdate till end of year.
4. May be extended to 24
5. Reformatory only

PART III. COURT RULINGS ON EDUCATION IN THE CONTEXT OF UNCONSTITUTIONAL CONDITIONS OF CONFINEMENT LITIGATION

There are several court decisions requiring the provision of education or special education to inmates as a means of ameliorating prison conditions found by a judge to be "cruel and unusual punishment," i.e., unconstitutional conditions of confinement. Typically, unconstitutional conditions of confinement are a correlate of excessive inmate idleness for lack of adequate programs, especially work and education. Even where idleness is not a present problem, the court may anticipate future idleness where existing programs are required to be dismantled because they create other constitutional violations.

In *Ruiz v. Estelle*,[45] a consent decree provided in part that the DOC will substantially improve its treatment of mentally retarded and developmentally disabled inmates. Among other provisions of the consent decree was the agreement that no inmate will be denied access to education programs because of health status unless so required for health reasons as determined by a licensed physician. In *Palmigiano v. Garrahy*,[46] the court reaffirmed its prior order that all inmates be provided an opportunity to have educational, vocational, or meaningful job opportunities. In *Kendrick v. Bland*, 541 F. Supp 21 (1981), a consent decree accepted by the DOC included provision for special education as a partial remedy to unconstitutional conditions of confinement.

How EHA Interfaces With These Court Rulings

A number of cases have held that services to the general inmate population must also be available to special population inmates. In *Wojtczak v. Cuyler*,[47] the court reasoned that state failure to protect inmates in the general population was in violation of the 8th Amendment against cruel and unusual punishment. This mitigated against the state's argument that by seeking protective custody inmates waived the right to program participation. *In re Barnes*,[48] the court indicated that it had serious doubts about the denial of good time credits based upon lack of programs for protective custody inmates. However, at least one state court (Massachusetts) has ruled that state legislative provisions require that inmates in protective custody be provided services in a manner like that afforded inmates in the general population.[49]

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45 503 F. Supp. 1265 (1980), modified, 679 F.2d 1115 (1982)

46 639 F. Supp. 244 (1986)

47 480 F. Supp. 1288 (1979)

48 221 Cal. Rptr. (1985)

49 *Blaney v. Commissioner of Correction*, 372 N.E. 2d 770 (1978)

In addition to rulings on male inmates not in the general population, equal protection claims have been successfully pressed by female inmates.[50] Thus, by virtue of the decisions cited, both male and female inmates may make claim to equal opportunity to attend education classes. These decisions are limited, however, on their own terms to mandating education comparable to that offered the nondiscriminated-against inmates. In the absence of any other legal principles, the nonprovision of special education to male, general population inmates would foreclose equal protection claims to special education by women or special custody inmates. However, EHA requires the DOC to provide special education to those entitled to such services. In these circumstances, the scope of equal protection requirements is still to be determined.

The Impact of Developmental Disabilities Laws

A final type of legislation that might be cited to support claims of an inmate right to special education is the federal Developmental Disabilities Assistance and Bill of Rights Act,[51] P.L. 98-527, and its state counterparts.

Federal. While there have been no court rulings pertaining to inmates under this Act, Title I of same establishes a cooperative federal-state funding program for services to the developmentally disabled. Title II sets forth the Bill of Rights that a state must protect to participate in the funding program. In its total context, it establishes the right of developmentally disabled persons to appropriate treatment, services, and habilitation designed to 1) maximize the developmental potential of the disabled and 2) minimize the degree of restrictions placed upon the disabled. Moreover, individual habilitation plans are required for persons receiving treatment in programs funded in part with federal funds. Admittedly, the major thrust of the Act is to advance deinstitutionalization, which on the surface is unrelated to the correctional context. However, by extension through state advocacy, it serves to fortify the EHA mandate. States are free to use their funds under the Developmentally Disabled Assistance and Bill of Rights Act for services to developmentally disabled inmates.

An additional resource which may serve as an advocacy service for corrections is the State Protection and Advocacy system, which was established pursuant to the Act. State Protection and Advocacy agencies may advocate for increased state attention to the needs of mentally retarded inmates. Neither services nor advocacy for disabled inmates is explicitly required under the Act. At the same time, the Act requires that a state plan submitted for federal funding contain assurances that "the

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[50] *Cooper v. Morin*, 398 N.Y.S. 2d 36 (Supp. Ct. 1977); *Batton v. North Carolina*, 501 F. Supp. 1173 (1980); *Glover v. Johnson*, 510 F. Supp. 1019 (1981)

[51] 42 U.S.C. 6001 *et seq.*

human rights of developmentally disabled persons will be protected...."[52] Another section of the Act requires that the state plan describe the extent of services being provided to developmentally disabled persons under <u>other</u> state plans relating to education for the handicapped. (Here, EHA becomes the enabling source.[53]) Secondly, the state plan must be developed only after consideration of the data collected by the SEA.[54] Thus, enforcement by the Department of Education of state responsibilities under EHA may have a secondary impact upon state use of funds provided for services to the developmentally disabled.

<u>State</u>. State law equivalents of the federal Developmental Disabilities Protection Act may either prohibit discrimination against the developmentally disabled (through the vehicle of Section 504) or establish a right to education among the developmentally disabled. The following is an overview of legal variants in certain states.

- Colorado is the only state that prohibits discrimination in public services against the developmentally disabled.
- Arizona, California, Colorado, Delaware, Louisiana, North Dakota, and Tennessee provide the developmentally disabled with a right to education.
- Illinois requires a survey of needs and an account of the degree to which the needs are being met.
- Indiana requires coordination among state agencies, which would include SEA and DOC.
- New Jersey legislation requires the departments of Correction and Human Services to develop a plan to serve the mental health needs of inmates, which presumably includes mentally retarded.
- West Virginia authorizes the state Commission on Mental Retardation to consult and advise other agencies.
- Kansas and Pennsylvania require that the agency administering programs for the developmentally disabled review all state programs serving this population.

<u>Parole Related Issues</u>

Because of the overcrowding that has plagued prisons and will continue to do so in the near future, parole for an increased percentage of offenders has come to serve as a viable alternative to protracted incarceration. However, recent concerns over the inadequacy of many

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[52] 45 C.F.R. 1386.30(e)(3)

[53] 42 U.S.C. 6022(b)(2)(c), (4)(d)

[54] 20 U.S.C. 1418(b)(3)

inmates' education in terms of acquiring and maintaining jobs and succeeding in their parole status have led several states to tie parole eligibility to education levels of achievement. In Virginia, Governor Baliles' "no read, no release" pronouncement represents the most publicized version of this issue.[55] However, the practice of linking educational achievement with parole eligibility raises legal questions, particularly as applied to learning handicapped inmates. The following is a precis of how certain states have dealt with this issue.

Two states, Georgia and Tennessee, have already adopted legislation requiring inmates to achieve specified levels of educational achievement as a factor in parole consideration. The Georgia law exempts inmates with "serious learning disabilities" but does not define the term. Further, Georgia law permits the parole agency to grant parole to disabled inmates at its "discretion," which also remains undefined. The Tennessee law declares it to be public policy that parole shall not be granted without the inmate having passed basic skills tests, but excludes from this requirement those inmates who are mentally retarded or mentally ill. However, if such implementation would increase the inmate population, the law does not take effect, as indeed it did not. Indiana law provides that inmates may not be assigned to a minimum security release program unless minimum literacy standards are met. Inmates unable to meet these standards as a result of a handicap are exempted from the Act. The Act also exempts inmates prevented from achieving the standards before expiration of sentence because the sentence was too short.

More reflective of common practice among the states are laws in Michigan and Mississippi which respectively provide for the parole board review of an inmate's record to include the educational record and the granting of good time credits for successful completion of an educational program. All of these provisions may be subject to challenge through one or a combination of statutes--EHA, Section 504, and state law equivalents--in the following areas:

- Denial of due process. The due process challenge would be based upon the notion that an inmate may not be "punished" for the failure of the state to provide an appropriate education to inmates having a handicap that limits their ability to learn in non-special education environments.[56]

- Equal protection. The equal protection challenge would be premised upon the idea that the failure of the state to provide appropriate educational services to permit handicapped inmates to achieve the desired level of academic competence cannot be

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[55] State policy to condition parole release upon inmate educational achievement is limited by due process requirements that the methods used to test educational achievement be related to the materials taught.

[56] *Debra P. v. Turlington*, 644 F.2d 397; 654 F.2d 1079 (1981) Court decision declaring that state achievement tests as a prerequisite to graduation are unconstitutional where the test materials cover matters not taught by the schools.

used by the state as a legitimate basis for distinguishing among inmates for the purposes of parole eligibility.

Finally, parole decisions which take into account inmate participation in education programs provide correctional agencies with a basis for an inmate right to education. By extension, this fortifies the argument for learning disabled inmates' right to special education.

CONCLUSION

In sum, there is a strong, multi-based legal mandate requiring correctional agencies to provide special education to eligible inmates in need of such specialized help. The court rulings cited demonstrate the ever present potential for litigation as well as the assistance and resources correctional administrators are assured of by complying with the law.

Beyond the potential for litigation, correctional facilities which do not establish special education programs risk the loss of federal funding and other program support which may have negative impact on the institution's overall organizational structure and operations. On the affirmative side, special education is likely to benefit correctional facilities in the long run. Agencies have experienced reduced disciplinary infractions as a result of such programming. Therefore, correctional administrators succeed in not only fulfilling essential legal requirements but in maximizing the advantages these numerous legal principles bestow.

Section 4

IMPLEMENTING A SPECIAL EDUCATION PROGRAM IN ADULT CORRECTIONS

Bruce I. Wolford and Karen N. Jansen[1]

The various processes of establishing a special education program in an adult correctional facility are reviewed with special consideration of interagency collaboration and the legal responsibilities of state departments of corrections and state departments of education.

INTRODUCTION

The original authors of Public Law 94-142, the Education for All Handicapped Children Act of 1975, focused on provision of a free appropriate public education for school age children who previously had been excluded or were receiving only marginal services from public schools. This orientation of the law with focus on children rather than young adults, and on public schools rather than on all institutions where handicapped youth might reside, made implementation of this law in corrections --especially in adult corrections -- most difficult. In recent times, however, amendments have clarified, strengthened, and extended provisions of P.L. 94-142. P.L. 98-199 in 1983 and P.L. 99-457 in 1986, for example, included more emphasis on secondary education and transitional services for handicapped youth. Educators of the handicapped are now required by law to work with adult services, as well as juvenile, and take more responsibility for preparing handicapped young adults for work and independent living in the community. These changes will facilitate implementation of P.L. 94-142, as amended, hereafter referred to as EHA (Education of the Handicapped Act), within adult correctional systems.

This section outlines the processes of establishing a special education program in an adult correctional facility, evaluating inmates for handicapping conditions, planning individualized educational programs, implementing the special educational services, keeping records, and monitoring programs and related services. This section also addresses interagency collaboration and delineates the responsibilities that the law assigns to state departments of corrections (serving as the local education agency, LEA) and to state departments of education (referred to in EHA as state education agency or SEA). (For further details in terms of the law, P.L. 94-142, as amended, (EHA); see Section 3 of this Guide.) Furthermore, correctional administrators need to familiarize themselves with their state's statutes and regulations to make sure that they implement a special education program that is in compliance with both state and federal law.

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PLANNING AND START-UP

The law charges the SEA, among other things, with the responsibility to ensure that all institutions within the state serving handicapped youth provide an educational program meeting the requirements of EHA. Therefore, the designated correctional administrator should contact the SEA as the starting point for discussion and information sharing in developing and maintaining a special education program in a correctional institution or system. To facilitate negotiations between the two agencies, and to ensure that all program plans and developments are in accordance with the law and regulations, and sound special education practice; it is advisable to designate a fully certified special education professional (preferably licensed as a Special Education supervisor) to serve as the special education coordinator at the Department of Corrections (DOC) central office. The special education coordinator should be responsible for overseeing overall program development and implementation. Once programs are in place, this position also assumes a supervisory role. The following are the major areas to be supervised by this individual:

- Annual needs assessment;
- Screening and referral procedures;
- Program planning and evaluation;
- Staff training and evaluation; and,
- Coordination with SEA on monitoring compliance.

As an initial step, a "child find" must be conducted, a responsibility given by the law to the SEA. It requires identification of the potential number of persons with handicaps in the eligible age group. The SEA, therefore, is required to assist the DOC in developing and implementing a procedure that would identify potentially eligible inmates. Usually, it involves working closely with classification personnel as well as utilizing the Offender Based Correctional Information System (OBCIS) and other records to identify those inmates who are in the eligible age-group (usually 21 and under) and whose test scores and/or school and social records (usually from the pre-sentence investigation reports) would suggest the possibility of a handicapping condition. Included in this count should be anyone with an IQ of 69 or below, a physical or psychological handicap, low academic functioning as compared to chronological age, and those previously identified by a public school as eligible for Special Education services.

SEA Responsibilities

In the event that the SEA does not respond to the documented request of the DOC for assistance and/or funds, the DOC can obtain guidance on how to proceed from the state Protection and Advocacy (P & A) agency. Under current federal law, every state is required to have established a "protection and advocacy system" in order to receive funding allotment under the Developmental Disabilities Act. State Protection and Advocacy services are available to provide information, to process complaints regarding noncompliance or the violation of the rights of developmentally disabled individuals, and to make appropriate recommendations that advance the benefits of this population. Typically, P & A staff seek to negotiate

solutions to problems and agreements between agencies. Because the rights of handicapped inmates are protected by state and federal law, and it is the responsibility of the state to protect those rights, the DOC must seek ways to establish an agreement with the SEA for the delivery of services to handicapped inmates. In order to continue to receive federal funds allocated under EHA, each state must document the delivery of free appropriate education to all handicapped persons under the age of 22. The SEAs' responsibilities are not terminated by the incarceration of persons with handicaps, and the failure of the SEA to ensure the delivery of services can result in the termination of all federal funds to that state. If needed, the DOC should ask for the Attorney General's opinion as to the respective responsibilities of the SEA and the DOC in the delivery of educational services to incarcerated persons with handicaps. In several states, such requests have led to action on the part of originally reluctant SEA's.

SEA's serve as resource agencies and can provide the following:

- Handbooks on relevant state laws and standards;
- Procedure manuals with sample forms for recording assessment, classification, and the individual education program;
- Access to education regional resource centers;
- Assistance in locating, selecting, and adapting curriculum materials;
- Technical assistance and/or consultation in planning and providing in-service training;
- Directories of related services; and,
- Funding for training.

In addition, the SEA is responsible for informing the DOC of changes that affect the provision of special education such as changes in federal or state rules and regulations.

The next step is for the DOC special education coordinator to prepare an application to be submitted to the SEA for the receipt of funds under EHA, Chapter I of the Educational Consolidation and Improvement Act (ECIA), and whatever state special or regular education monies are available to fund start-ups and implementation of a correctional special education program. "Child count," teacher/pupil ratios, staff requirements, and facility or space availability data should be factored into the proposed funding request. The more detailed the expenditure account, the better the chances of obtaining appropriations. The following should be included at a minimum:

- Instructor, supervisor, and other professional salaries;
- Support and related services required (e.g. speech therapy, counseling, visual or hearing tests);
- Supplies, materials, and equipment enumerated according to the activity or learning unit for which they are designated;
- Costs of in-service workshop training; and,
- Funding for the continuation and/or expansion for recruitment of staff.

DOC's are, however, alerted to the fact that the costs of providing Special Education in corrections are never entirely covered by other federal or non-DOC state funds.

Whenever possible, the special education coordinator should apply to state and federal agencies for technical assistance; this is especially important in the early stages of program development. It should be noted that several state DOC's, e.g., South Carolina, Texas, Georgia, and Maryland, called in professional experts in mental retardation and mental health to help them establish their programs. Some technical assistance can usually be obtained free of charge from the SEA. Funding for such technical assistance as well as information on other potential funding outlets are available from the Correctional Education Program in the U.S. Department of Education and the National Institute of Corrections.[2] When budgetary and personnel needs have been determined, the DOC and the SEA should draft an Interagency Agreement. This document should contain the guidelines for a high-quality program; its implementation and management, and the timeliness for reports, monitoring, and evaluations of the program.

DEVELOPING AND IMPLEMENTING A SPECIAL EDUCATION PROGRAM

The special education program in a correctional system or facility begins with the offender's entry into the system. The process continues with the following:

- The screening for individuals with potentially handicapping conditions;
- Conducting the evaluation of inmates suspected of being handicapped;
- Meeting to decide if special education placement is needed;
- Developing the individualized education program (IEP);
- Implementing the IEP;
- Meeting to review the IEP; and,
- Determining to revise or terminate the IEP.

Exhibit 4.1 on the following page displays the sequence of special education activities.

In systems with a central intake Diagnostic and Reception Center, the initial screening should take place at the Reception Center with trained staff conducting the necessary tests. The evaluation, which requires the inmate's or his or her parent's consent depending on the individual's age, may either be conducted at the Reception Center or by institutional staff upon referral from the Reception Center. It requires, among other things, an interdisciplinary team and a period of observation in a classroom setting.

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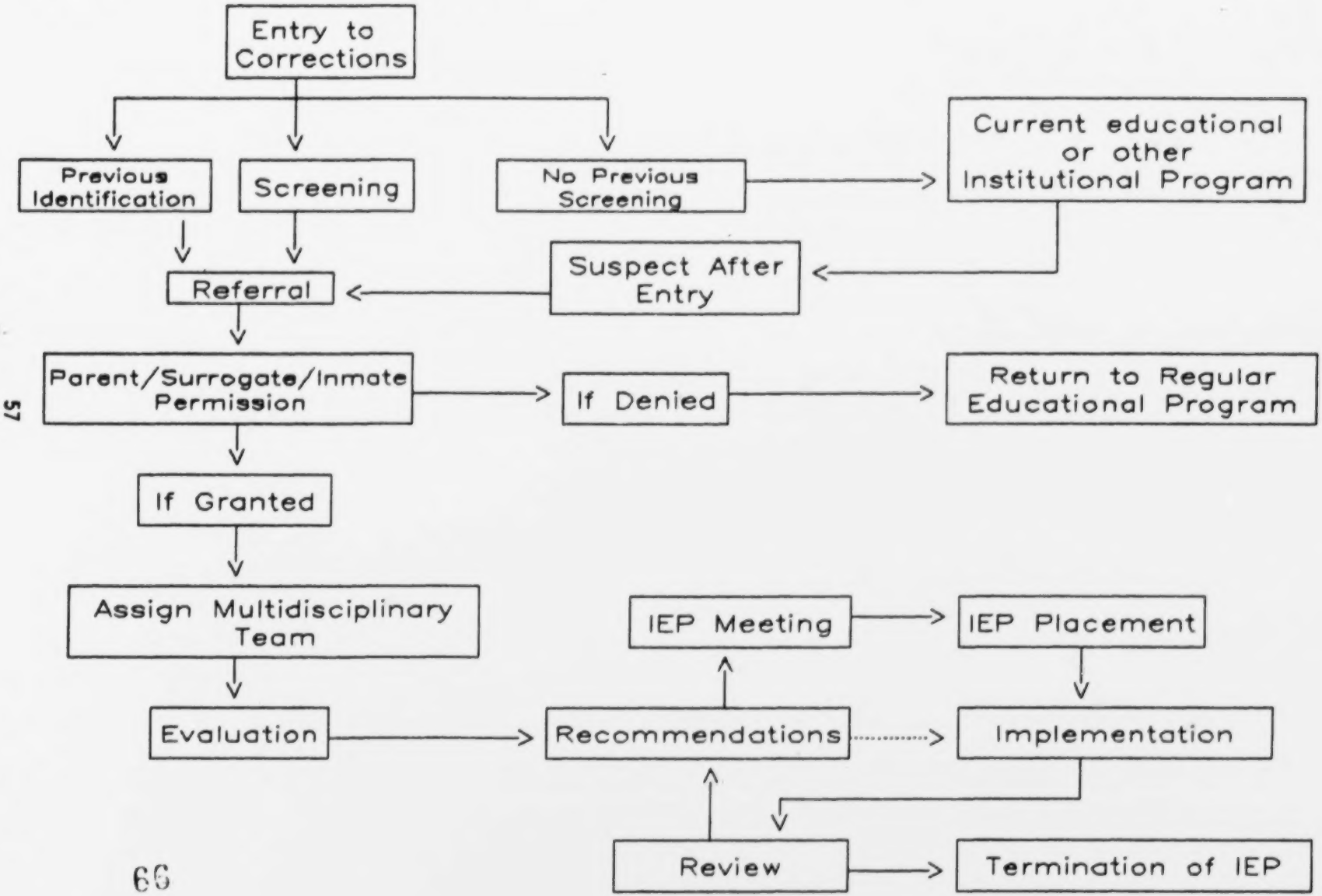
[2] For further details on funding and technical assistance, see Sections 9 and 10 of this Guide.

Exhibit 4.1
Sequence of Special Education Activities



Screening for Referral

Referral to special education can occur during the intake process or following the intake process (i.e., by an inmate's teacher). The referral is made to the multidisciplinary team that meets to determine whether or not an inmate needs a special educational program. Screening for handicapping conditions is accomplished by collecting the following information.

1. Educational and Family History. Every attempt should be made to obtain previous educational records. However, the offender might not have been enrolled in school in recent years. Often there is some lapse in time before the records can be obtained, and in many cases, they are never received. When educational records are obtained, they may provide information such as a history of dropout, truancy, or deficiencies in intellectual development. Some educational records will include information from special education programs and/or the offender's previous individualized education program (IEP).

2. Pre-Intake Identification. During the pretrial, detention, or sentencing process, law enforcement or judicial personnel may have observed that the offender has characteristics of retardation, learning disabilities, or other handicapping conditions. Written documentation of observed poor motor abilities, expressive language problems, speech difficulties, unusual emotional behaviors, or difficulty following instructions can assist in singling out offenders for screening. The PSI may provide some of this information.

3. Interview File. An interview should be conducted with the offender to obtain a personal account of school attendance, educational level obtained, difficulties in school, and any special services received in school that may indicate previous placement in Special Education. Information as to medical problems, previous counseling or other social services received, and other volunteered information can be useful in screening for learning handicaps. Such information, coupled with the interviewer's professional observations, should be written down and retained in the inmate's file.

4. Hearing, Vision, and Medical Screening. A medical screening, including vision and hearing tests, should be conducted. It is best to have this initial screening done in the diagnostic and classification process so that by the time the individual is assigned to a specific facility, education staff will be aware of a potentially handicapping condition.

All staff members who are compiling information to be used in screening and evaluation of inmates for educational decisions need to know that the compiled information becomes part of the inmate's educational record. As indicated in Section 3, inmates have the right to inspect and review their educational record. It is important for all staff to be aware of the fact that any mixing of law enforcement records with the educational

record results in the law enforcement records becoming part of the educational record and thus available to the inmate for inspection and review.

Evaluation

According to the law, the inmate must give written consent to be evaluated before any pre-placement evaluation is conducted. Practitioners in the field report that usually the offender gives consent to be evaluated--especially if the recommendation is made in encouraging, non-derogatory terms. If an inmate refuses to be evaluated, the inmate should sign a statement to that effect. If inmates are under 18 or their handicapping conditions render them unable to participate or act in their own behalf, surrogate parents should be appointed in compliance with federal and state guidelines.

An evaluation must comply with two important stipulations that guard against discrimination. First, EHA requires that evaluation procedures not be racially or culturally discriminatory and that all materials and procedures be provided in the individual's native language or mode of communication. Second, this law requires that no single procedure shall be the "sole criterion for determining an appropriate educational program," and that no single individual be the source of all evaluation information. It is recommended that the evaluation be conducted by persons from at least two different disciplines. Examples of appropriate disciplines from which to choose persons for this role are special education, psychology, social work, counseling, and communication disorders.

Inmates who are referred as possibly learning handicapped based on the screening information, intake data, or the observations of teachers and other staff should receive testing in the areas of suspected disability. The state regulations should be checked for specific eligibility and evaluation requirements. Instruments used may include the following:

- Psychological tests to measure general mental ability as well as specific areas of strengths and weaknesses;
- Educational tests to provide information about a person's skills and achievement levels in academic areas;
- Tests to assess auditory and visual perception and memory, motor skills, and vocational interest;
- Speech and language tests to evaluate articulation, auditory processing, and expressive and receptive language development; and,
- Behavioral or personality measurements to describe the individual's responses to himself or herself, others, and to work responsibilities.

When selecting tests to be used as part of the evaluation, there are several criteria to consider, some of which recognize and address the

unique nature of the correctional environment. The selected assessment procedures should

1. Have content validity. Tests should measure what they purport to measure and should be appropriate for the correctional environment.

2. Have high reliability. They should be consistent in measuring what is meant to be measured.

3. Be appropriate for the population to be assessed. When choosing appropriate tests for an inmate population, sociocultural differences or disadvantages, which typically depress achievement, must be taken into account. In addition, the behavioral or social dysfunction which is characteristic of inmates uniformly surfaces in tests. Low ratings on adaptive scales are more the rule than the exception.

4. Be easy to administer and to score. Given staffing shortages and marginal accessibility of professional services, such as psychologists, other employees may be required to give these tests. Consequently, instructions for administering tests and analyzing their results should be as clear and descriptive as possible.

5. Provide data that will be useful for decisionmaking. It is important to determine exactly how mild or severe the handicap is in order to make appropriate institutional assignments as well as programming arrangements.

6. Be of reasonable cost. Since budget limitations are an ever-present reality in corrections, the overall cost of testing must be reasonable.

There are commercial tests that meet these requirements. Special Education staff in the SEA can provide guidance. States with Special Education programs in corrections can be contacted for advice in terms of the appropriateness of various tests in an adult correctional setting.[3] Tests should indicate whether there is a severe discrepancy between intellectual ability and the expected achievement level concomitant with that ability. Severe emotional or behavior disorders requiring special education services are not determined solely by formal standardized testing. Thus it is very important to observe how the student takes these tests rather than focus only on the scores themselves. For this reason, it is important that trained clinical personnel administer tests. Staff members reviewing the total evaluation should also look for "False-Positive" testing results. For example, an inmate who has a B.S. degree may score exceptionally low because of psychological stress due to imprisonment or personal problems on the outside. Intentional manipulation of test results can also occur. Many inmates are in a state of psychological turmoil, fear, anger, or depression during the intake process

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[3] See list of State Directors of Correctional Education in Section 9.

when, for many, they enter the correctional environment for the first time or with a lengthy sentence. It is also important to clarify inconclusive data at this point and to distinguish between deficiencies caused by educational or cultural disadvantage and the specific handicapping conditions that meet the eligibility requirements under EHA.

Determination of Eligibility

The evaluation data--including any information from previous educational records, observations of staff, and interviews with the offender--are used to determine whether or not special education is needed. Caution must be taken to avoid some of the following problems during this stage of the IEP process:

- Assessments performed by poorly qualified personnel;
- Referrals that show evidence of behavior, social, or sexual bias;
- Severe discrepancies between ability and performance.

The evaluation should be completed within 45 days after initial screening so that the multidisciplinary committee can write and implement the individual education plan (IEP) within 60 days. The eligibility for special educational services is one of the possible outcomes of the IEP committee meeting. If the multidisciplinary committee determines, after reviewing the evaluation, that the inmate does not need special education, i.e., is not handicapped according to EHA, it should nonetheless write a report providing recommendations to the educational staff to help them in the instruction of this inmate.

If the committee determines that special education is needed, they must identify the specific handicapping condition(s) in accordance with the law. EHA defines "handicapped" as meaning "mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or health impaired... (persons) with specific learning disabilities, who by reasons thereof require special education and related services." Although eligibility has typically been determined based on the definitions of handicapping conditions as stated in the federal regulations for implementing EHA, some states (Kentucky, for example) are revising these definitions. Thus state regulations should be checked for the definitions and the eligibility requirements for each handicapping condition.[4]

Development of the IEP

EHA defines the IEP as a document written in a meeting by, at a minimum, the following persons:

- A representative of the local educational or intermediate educational unit who shall be qualified to provide, or

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[4] For further detailed definitions, see Sections 2, 3, and 8.

supervise the provision of specially designed instructions to meet the unique needs of handicapped ...[students] (this translates into the DOC Special Education Coordinator or other Certified Special Education personnel);
- The teacher;
- The parents or guardian ...; and,
- Whenever appropriate, the... [student].

EHA regulations, in addition, stipulate that the representative of the public agency who provides and supervises the instruction can not be the student's teacher. The regulations also add to the list of participants "other individuals at the discretion of the parent or agency" (Reg. 300.344). For a first-time evaluation for placement in a special education program, the regulations require that a person is present at the IEP meeting who has knowledge about the evaluation procedures used and is able to discuss the results of the evaluation. The agency can decide which teacher participates in the meeting, but one of the committee members should be qualified in the area of the suspected disability. Every reasonable effort should be made to include the offender in the preparation of the IEP.

Offenders Over the Age of Eighteen. Neither the Federal Act nor the regulations address the issue of whether, in the case of an individual over-18, the parents or a guardian must participate in the process of developing and reviewing the IEP. Although the intent of EHA clearly is to safeguard the rights to an education of persons who are not in a position to advocate for themselves, the lack of clarity on the federal level for persons over 18 appears to allow for modification of the parent participation requirement.

Content of the Individualized Education Program

The IEP must include:

- A statement of the offender's present level of educational performance;
- A statement of annual goals, including short-term instructional objectives;
- A statement of the specific education and related services to be provided to the offender, and the extent to which the offender will be able to participate in the regular correctional educational programs;
- The projected dates of initiation of services and the anticipated duration of the services; and,
- Appropriate objective criteria and evaluation procedures and schedules for determining whether the short term objectives are being achieved.

The IEP is a written commitment to provide the resources needed for a handicapped offender to receive the services he/she requires to be able to benefit from education. The IEP serves as an evaluation device for measuring the offender's progress. It is also a management and monitoring document. The correctional agency and teachers must make good faith

efforts to help the offender reach the objectives and goals, but they are not held accountable if the offender does not achieve the projected outcomes.

The IEP objectives are general benchmarks for determining progress toward the goals, but they are not as specific as those in daily lesson plans. The IEP objectives are what is expected to be accomplished over an extended period of time, i.e., more than a month. The IEP does not include the detail found in classroom instructional plans, e.g., specific methods, activities, and materials. While the format and length of the IEP are decided by the state and local agencies, the federal requirements can be met in a one- to three-page form.

Classroom and Teacher Strategies

In order to hire appropriate Special Education teachers and supervise and evaluate their work, correctional administrators need to be aware of the attitudes and practices that foster learning in this special inmate population. Having a well-run special education program in a correctional setting requires teachers whose strategies and techniques are positive and supportive, promote achievement, and actively involve students during the instructional process. The following are five criteria of Special Education delivery in a correctional setting:

1. Predictability. Predictability enables students to develop expectations and a sense of security from knowing what to expect. Routines for completing and grading work, consistency of response to students, recognition of achievement, and management of daily tasks should be established.

2. Supportiveness. A second characteristic of a positive classroom environment is support. Encouraging students to produce their best efforts, tolerating and sympathetically acknowledging errors, showing respect for the students, all help to establish an atmosphere of support. Most important, the teacher should be sensitive to individual differences among students and not permit derogatory comments from peers.

3. Responsibility for Learning. To create a sense of responsibility, teachers may use a number of techniques such as self-monitoring, posting completed student assignments, and charting students' progress. With regard to the IEP, it is beneficial to have students assist in the preparation of their IEP, be involved in the periodic review of this document, and assess their attainment of its goals and objectives.

4. Feedback. In order to improve their abilities, all learners need information on the correctness of their behavior or responses. Timeliness, frequency, and specificity of teacher feedback to students are important elements of a positive and supportive classroom climate. The most effective feedback is prompt, to the point, and sincere.

5. Opportunity to Be Heard. It is helpful to set aside time for weekly classroom meetings. In these sessions, students can establish a set of rules for discussions, learn skills related to respecting opinions of others, speak to a group, and share ideas. Adult students who have the opportunity to voice their concerns and opinions can develop a sense of fairness about the classroom and the feeling that the teacher respects them as learners and as adults.

In order to structure a classroom for academic success, there are several techniques that ensure smooth operation. First, effective teachers are good managers. They are able to orchestrate a large number of activities, motivate the students, and maintain a sense of humor. While there is no single way to coordinate classroom activities, strategies should be based on problem-solving, real-life situations, and student interest. For example, mathematics instruction could include problems related to spending monthly allowances at the commissary or determining the necessary amount of material for a construction project. Reading selections should focus on vocational choices, sports, and personal relationships and be age-appropriate. Low reading level materials with adult interest are no longer a rarity. They are available from many publishers and should be reviewed for potential use by correctional, adult special education students. Second, allowing students to make decisions gives them an opportunity to exercise a measure of control over their own lives and acknowledges their role as adult learners. This decreases dependent behaviors, especially in a vocational skills class. Third, involving students in the rule making process fosters participatory decision making, and responsibility for their own learning. Finally, teachers must help students learn how to respond to differences with other inmates, to comply with the disciplinary code, and to understand the relationship between their learning activities and adjustment in the institution and to society after release. It is important for correctional special education teachers to recognize the need for collaborative relationships with other staff so that education activities do not interfere, but work in unison, with the broader purpose of the institution.

Teacher-Student Communication

Youth and young adults with handicaps respond better to teachers who calmly and consistently communicate positive expectations to their students and whose verbal and non-verbal communication are congruent. Correctional supervisors must make sure the Special Education teachers follow these guidelines:

- Speak to a disruptive student directly. Don't address the student across the room or before the entire class;
- Ignore behavior that, although disruptive, may be temporary. Everyone has a bad day now and then;
- Deal with the present. Don't bring back past transgressions;
- Show trust and high expectations;
- Resolve problems immediately;

- Define acceptable behavior clearly and reinforce good behavior with positive feedback such as a smile, nod, or appropriate phrase;
- Don't over-react to student aggression and hostility;
- Express your request in positive ways that reinforce the individual and give some guidance; and,
- Allow for free expression of feeling but control disruptive behavior.

Transition and Aftercare

The transition of handicapped individuals from structured environments to the community and the world of work is currently designated a national priority by the U.S. Department of Education. This focus on transition is bringing about more interagency collaboration and support for young adults with handicaps who are seeking work and independent living in the community. Programs are currently being developed to serve persons with handicaps leaving the public school systems. These could serve as models for correctional transition efforts. To facilitate transitional services, the inmate should be asked to sign and date prior written consent forms for the disclosure of information from his or her educational record. This release may make it easier for the case manager to link the individual after release with community based agencies and organizations that provide the needed services and support. Interagency coordination and networking are crucial. Correctional administrators should seek out and make agreements with those who provide the following services:

- Advocacy and legal aid;
- Medical and dental care;
- Service for the developmentally disabled;
- Housing assistance;
- Employment assistance;
- Education;
- Recreation; and,
- Self-help groups such as Alcoholics Anonymous and Narcotics Anonymous.

Assistance with socialization needs may also result in the development of small social groups and activities in the community. Finally, when crisis intervention is needed, a case manager should be available.

RECORDKEEPING

Formal documents are needed so that a comprehensive written record on all eligible handicapped inmates can be preserved for each step of the programming process. These documents consist of forms, rights statements, checklists, and consent notices. Together, they should record all transactions from institutional entry to post-release transition plans. These types of forms are required by law and monitored by the SEA. Faulty or incomplete record keeping may result in citations of non-compliance and possible loss of funding and/or legal action. (See Appendix D for sample copies of the forms used by Maryland.)

The records of transactions and procedures include all activity relating to the determination of need for special education in an individual case. This ranges from notification of referral, to criteria for determining the existence of a learning disability, to program development and placement, and to notification of termination of special education services. In addition to these procedural, placement, and process forms; other records that should be accessed and retained in the inmate's file are the educational and family history, recorded observations indicating conditions from the pre-intake personnel, and interviews with the inmate.

According to EHA, certain rights and protections are guaranteed to all handicapped students. These statements of rights should be read to the students and signed by them on official forms. As described in Section 3, there are seven basic areas of rights. Specific forms for each of these areas must be completed and submitted for review to the monitoring agency, the SEA.

MONITORING

The SEA has the ultimate responsibility for reviewing student records, prior monitoring reports (if any), program deviations, and surveys of teacher and pupil personnel services. The agency develops a profile showing areas of compliance and areas requiring corrective action. It also identifies areas in which technical assistance is needed to remedy problems that may reduce the effectiveness of special education programs.

The SEA, as the state agency with the primary responsibility for monitoring compliance with EHA, is charged with discovering any deficiencies in the educational programs for youthful offenders with handicapping conditions. However, correction of violations is often made difficult by the mechanisms for interagency cooperation. Therefore, it is important to incorporate as much qualifying detail into interagency agreements as possible. This eliminates misunderstanding and the possibility of being found in noncompliance. It is also important to take into consideration the problems associated with the conflicts between educational and correctional priorities. Education also is affected by "system characteristics," such as short-term incarceration, transfer frequency, shortages of funds, too few trained personnel, and the necessity for protective custody/segregation. The SEA monitoring staff should be made aware of these problems so that they can work with the DOC staff to find realistic solutions.[5] The process requires that responsibility be delegated to both the SEA and the DOC, as delineated below.

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[5] The monitoring guide prepared by Martin Gerry (see Bibliography) is an excellent tool to acquaint SEA's with the systems characteristics of corrections.

SEA Responsibilities

The SEA is responsible for providing and supervising--or coordinating with other community agencies--a comprehensive program operation in accordance with state policy. It then establishes systematic monitoring and compliance controls to insure that IEPs are developed in all state agencies, including correctional institutions. The following are the stages of activity that SEA consultants generally follow in their compliance review:

1. The correctional institution is generally notified of the upcoming review by mail. The review usually includes a site visitation, the date of which is announced in the notification.

2. The SEA requests that materials be sent in advance of the site visit so that they can be inspected, These materials comprise a list of documents that include written procedures for the special education process. These documents could be in the form of a manual or guide and are usually directly related to particular compliance issues--such as written procedures and evidence of implementation.

3. After the materials have been submitted, the SEA representative makes a site visit; the number of visitation days is dependent on the size of the program.

4. These are some of the activities that take place during the visitation:

   - Reviewing student sample folders;
   - Visiting student classrooms for service verification;
   - Providing technical assistance (if needed) on corrective action;
   - Reporting preliminary findings at exit conference.

5. If noncompliance issues have been found, a written report will describe such issues, allow a certain time period (approximately 30 working days) to address these issues, and conduct follow-up activities to ensure that they have been corrected.

6. In cases of continuing noncompliance or failure to make reasonable progress reports, the reviewing consultant refers the matter to the appropriate authority within the SEA for action designed to ensure prompt compliance.

DOC Responsibilities

It is the DOC's responsibility to obtain (when possible) a state-approved monitoring model that complies with minimum standards and has a self-guiding capacity. In the absence of such a model, it would be advisable to arrange for a liaison between an SEA coordinator and the DOC special education coordinator/supervisor. The sooner this takes place, the

easier it will be to facilitate procedures for an acceptable delivery system. It is also advisable to conduct in-service training at the correctional facilities as soon as this liaison has been established. The in-service sessions would address all the required areas for compliance so that each institution may develop specific charts of responsibilities. The following are the major areas in which related staff should be properly informed in order to provide adequate service:

- Knowledge of legal requirements;
- Screening and/or assessment procedures;
- ARD procedures and functions;
- IEP development and implementation;
- Instructional programming;
- Behavior management;
- Program evaluation;
- Surrogate issues; and,
- Determining least restrictive environment.

Preparation for Monitoring

The best preparation for monitoring procedures is to have an SEA guide to use as reference. It is likely that the team will request the following kinds of information:

- A map or layout of the program which details classrooms, support services, and personnel's areas;
- A daily class schedule of each special education teacher;
- A "fact sheet" about the program that includes the number of students receiving special education services, the total number of teachers and support services staff members, special programs which are offered, and location of student records; and,
- A list of school-based committee members (e.g., the multidisciplinary team) and their roles and responsibilities.

Another way to prepare for monitoring is to conduct a self-evaluation that addresses basic compliance areas. These are suggested questions to ask in such a self-review:

1. Child Find. Has there been an annual census of potentially handicapped inmates at the initial diagnostic/intake process?

2. Referral. Have those newly identified handicapped inmates been referred for placement?

3. Screening and Evaluation. Is there a need for more psychological services to keep up with testing and re-evaluations? Who generally conducts the educational, medical, adaptive behavior, vocational evaluations?

4. Placement. How regularly does the IEP Committee meet? Are all reasons for placement documented in the proper manner, by the appropriately qualified personnel?

5. IEP. Where are the current (and previous) IEP's kept? Who develops and writes the IEP's? Are surrogates notified of all stages of the IEP process?

6. Least Restrictive Environment. Is the program potentially available to offenders in all living areas and security classifications within the facility? Of the total number of handicapped students, are any students in an "isolated" educational setting for more than 50 percent of each school day?

7. Pupil-Teacher Ratio. Are there serious overloads in the special education classes?

8. Procedural Safeguards and Due Process. Do staff members understand what is meant by "due process rights?" Are students/surrogates given copies of the due process rights?

9. Confidentiality. Where are confidential records kept, and who is responsible for keeping and securing these records?

10. Staff Qualification. Are all special education teachers and support personnel certified in the appropriate areas?

11. Comprehensive System of Personnel Development. What types of staff development have you been involved in during the past years?

Other Monitoring Resources

To date, the best resource on procedural issues in monitoring for correctional administrators is Martin Gerry's monograph entitled Monitoring the Special Education Programs of Correctional Institutions (1985). Using Gerry's guidelines, C. Michael Nelson and Robert B. Rutherford compiled a "Correctional Special Education Compliance Questionnaire" (see Appendix E for sample copy) that can be used by correctional staff as a preparatory self-evaluation.

STAFF SELECTION AND TRAINING

Qualified staff are central to an effective special education program. Each State Department of Education establishes qualifications and certification requirements for special education teachers. Hiring certified special education teachers does not ensure that they are prepared to teach inmates with handicaps in a correctional setting. Typically the special education teacher new to corrections will need in-service training. This may include an orientation to the correctional facility, program, and staff; instruction in the behavioral patterns and communication systems of inmates; and instruction in the teaching of adaptive life skills as an important component of the correctional education program.

All non-instructional professional support staff (i.e., psychologists, speech and language therapists) should also meet professional and state qualifications. Gaining the services of qualified staff to work in a correctional facility can be difficult for reasons that include a lack of funds, lack of qualified staff from which to hire, location of many correctional facilities, and public misconceptions regarding correctional institutions. If it is necessary to contract for the services of speech and language therapists, psychologists, or other related services staff; then those persons should receive an orientation to the correctional setting, be invited to attend in-service training sessions, and be encouraged to participate in committee meetings. The C/SET, 8-module training curriculum is an excellent tool for pre- and in-service training of all correctional Special Education staff.[6]

In addition to special education teachers, regular education teachers need in-service training in the identification and instruction of inmates with learning handicaps. This training is needed to help the teachers accept students with handicaps, modify classroom instruction, and work cooperatively with personnel trained in different disciplines.

Furthermore, it is important to train other correctional staff who come into contact with handicapped inmates. This training can improve the communication of rules and directions to inmates with problems in understanding spoken language. Increased support from security staff can help decrease the handicapped inmate's vulnerability to threats and coercion from other inmates and the number of disciplinary infractions.

Utilizing incentives and enhancing staff development are excellent strategies for retaining high quality staff to work with inmates with handicaps. There are a number of ways of doing this, including the following provisions:

- Release time to earn certification or graduate credits;
- Visits to model programs;
- Consultants to work with staff;
- Reimbursement for participating in after hours in-service training; and,
- Programs leading to professional advancement.

Staff input into the planning of in-service training also enhances its relevance to staff needs and increases the impact on the services for inmates with handicaps.

The State Education Agency (SEA) is required to assess the training needs of personnel serving handicapped students, and this includes personnel in correctional programs. SEA's are also required to provide

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[6] These modules are described in detail in the Abstracts section of this Guide. They were prepared through a grant from the U.S. Department of Education, Office of Special Education, specifically for correctional special education staff. Several states (e.g., Michigan, Maryland, and Georgia) have adapted the C/SET materials to individual state needs and used them as the basis for orientation as well as training.

assistance with the training of personnel for the education of this population.

Staff needs assessment is an on-going process. Data on the need for staff and for staff training should be maintained, up-dated, and reported to the SEA in order to substantiate the need for funding of both. Staff training cannot be a single package used repeatedly; instead it should be responsive to the staff's changing needs for training and up-dated as new information and approaches become available.

COST AND FUNDING

There are a variety of sources for funding special education programs. These are listed in Section 10 of this Guide. They consist of State as well as flow-through federal monies. Funding can be obtained for staff, facilities, equipment, materials, training, and technical assistance. For the 21 and under population, EHA, Chapter I, and the set-aside in the Carl D. Perkins Vocational Education Act are the main federal sources of funding. For the over-21 inmates with handicaps, the Perkins Act (with a 1 percent set-aside for corrections as well as monies designated for the handicapped), and the Adult Education Act (with a minimum of 10 percent designated for "institutional populations") are the chief federal sources of funding, which can be augmented with Job Training Partnership Act (JTPA) monies, Vocational Rehabilitation Act resources, and Chapter II monies. Correctional administrators should also explore state resources aimed at serving persons with handicaps. Good grantsmanship coupled with careful coordination with community-based organizations and agencies can result in a lot of monies and free services to help defray the cost of Special Education in corrections. However, correctional administrators must expect realistically to have to augment these sources with additional appropriations.

CONCLUSION

In order to implement a systemwide special education program that is in full compliance with state and federal law and meets the requirements for inmates of all ages with handicaps, correctional administrators need to make sure that all staff involved in any aspect of the program are fully aware of the policy and procedures to be followed and the standards to be met. Written policy and procedures, processing manuals, standardized forms, and staff training in the use of these are the keys to success.

Many states have developed excellent Special Education Program Manuals, e.g., Connecticut, Georgia, Maryland, Michigan, Missouri, and Texas. These can be used as "models" in the preparation of state-specific guides.[7] Section 8 of this Guide provides model policies and procedures which can be adapted to individual state needs, rules, and regulations.

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[7] Copies of these can be obtained through the Director of Correctional Education of the state or through the NIC Information Center (see listing in Section 9).

Section 6 further describes standards for sound practice in the delivery of Special Education and related services.

In conclusion, it should be stressed again that recent developments and new emphases in federal legislation and initiatives have facilitated delivery of special education to adult inmates with handicaps and their transition into the community upon release. There is no longer an excuse for correctional administrators to ignore the mandate of the law on the grounds that it applies only to children in public schools. Correctional administrators can make sure that all inmates with handicaps, regardless of age, will be served. The criteria for achieving this goal are as follows:

- A close partnership with the SEA;
- A network of interagency contacts,
- Agreements and initiatives;
- Creative fundraising; and
- A dedication to the proposition that all students with handicaps, regardless of their age and criminal record, need and are entitled to a free and appropriate education.

Section 5

PROGRAMS SERVING ADULT OFFENDERS WITH MENTAL RETARDATION: MODELS AND OPTIONS

Five different programs meeting specific criteria that currently serve offenders with mental retardation are described. Although each of them share certain criteria in common, they also provide examples of distinctly different approaches to serve the mentally retarded population in corrections.

INTRODUCTION

This section of the Guide provides descriptions of five different programs established to serve offenders with mental retardation. These are (1) The Habilitation Unit at the Stevenson Correctional Institution in Columbia, South Carolina; (2) The Texas Mentally Retarded Offender Program (MROP) implemented for men at the Beto I Unit in Tennessee Colony, and for women at Gatesville Unit in Gatesville; (3) The Mental Health/Mental Retardation Unit in Georgia State Prison at Reidsville; (4) The Intermediate Care Facility for the Developmentally Disabled at the Camarillo State Hospital in Camarillo, California; and, (5) The Individual Justice Program Model, implemented in Lancaster County, Nebraska.

These five programs were selected with several considerations in mind. First, they had to meet certain criteria. They had to have been in operation for at least 2 years, have undergone either formal monitoring or evaluation, and have written documentation. They had to serve a sizeable enough population in a setting separate from the general correctional population and with heavy emphasis on education and treatment services. Second, they were selected to represent different approaches to programming for persons with mental retardation in order to provide the readers of this Guide with some distinct alternatives. Third, they were selected to provide regional distribution, each operating in a different state and correctional system.

States with special programs for inmates with retardation were contacted and asked to provide written information. Based on an analysis of their documentation, the five states represented in this section were contacted and site visits were conducted to all but the Nebraska program. During the site visits, all program components were reviewed with visits to living quarters, classrooms, vocational shops, and prison industries. Administrative, educational, and treatment staff were interviewed as were selected inmates. Further interviews were conducted with a variety of central office staff as well as, in some cases, with representatives of other agencies associated in some ways with the MR program.

The programs described below share some common features; yet, they represent distinctly different approaches taken by state correctional systems to service this handicapped population. Texas has chosen to be all-inclusive, providing a separate living, working, and educational

environment for all of their inmates determined to be retarded as well as some of those considered to be "borderline," with an IQ between 70 and 75. As a result, it is the largest correctional MR program in the nation, involving approximately 800 inmates. The Georgia model is small by comparison with a capacity of 96 beds. It is unique in that it functions entirely within a maximum security setting and services primarily dually diagnosed mentally ill/mentally retarded offenders. The South Carolina program is the oldest correctional program of its kind in the country serving the developmentally disabled, many of whom suffer from mental retardation or are dually diagnosed. Whereas the Texas and Georgia programs were developed as a result of court action, the South Carolina program was voluntarily established to meet identified inmate needs.

As mentioned earlier in this Guide, 88 percent of all inmates with retardation are in the "mild" category, with an IQ between 51 and 69. The Camarillo, California program, however, provides services for more severely retarded offenders, those commonly in the lower "mild" or "moderate" categories. Programs and treatment, therefore, are somewhat differently tailored with a heavier emphasis on living skills and adaptive behavior, and using a behavior management orientation. Another difference is that this program, although dealing exclusively with sentenced offenders, is in a hospital rather than prison setting.

Finally, the Nebraska program focuses on providing a leave plan for the offender that would result in community based alternatives to incarceration for those determined by the court not to represent a danger to citizens in the community. This model is still in its experimental stage, but early results seem to indicate that it may be a valid option for many states in the case of offenders with retardation who have committed a non-violent crime. With limited correctional bedspace in general and for the mentally retarded inmate specifically, the Nebraska Individual Justice Plan deserves serious consideration.

THE SOUTH CAROLINA HABILITATION UNIT

In 1975 the South Carolina Department of Corrections initiated plans for a Special Learning Unit to provide services to mentally retarded offenders. For 3 years the program was maintained on federal (Title XX) funding. Upon termination of the federal seed monies, DOC Commissioner William Leeke requested and received state funds to insure continuation of the program. The unit was relocated in early 1984 from Kirkland Correctional Institution (a medium security facility) to its present location, the Stevenson Correctional Institution (a minimum security facility) also serving geriatric and physically handicapped inmates. At that time the name was changed to Habilitation Unit for the Developmentally Disabled, now commonly referred to as the "Habilitation Unit." It currently can accommodate 32 full-time, live-in inmates and an additional 18 individuals on a day-care basis. These are mostly women with retardation who are bussed in from a nearby women's institution.

Mission and Role of the Program

The South Carolina program has developed from a limited activities program into a total habilitation treatment program based on the assumption that socially acceptable behavior and skills necessary for independent community living have never been acquired by these clients. According to the DOC policies and procedures under which the Habilitation Unit operates, "the Unit will be responsible for providing specialized treatment services for developmentally disabled inmates to increase their knowledge, skills and abilities necessary for independent living." (SC DOC 2100.12)

Program Description

The program description below addresses eligibility criteria, referral, intake and assessment and program components. It also profiles the population of the Habilitation Unit. Eligibility to participate in the Habilitation Unit is limited to inmates possessing, or suspected of possessing, developmental disabilities due to an intellectual impairment that substantially limits their ability to function independently in the correctional environment. Inmates must experience substantial limitations in at least two of the following areas: self-care, self-direction, hearing and/or speech, capacity for learning, social and emotional adjustment, and mobility. The inmate must be willing to participate in the Unit and agree to adhere to all of the Unit's operational policies and procedures. The inmate must also exhibit the desire and potential for acquiring independent life skills and employment skills. The inmate signs an agreement, copies of which are placed in central office as well as Warden's files.

Referral, Intake, and Assessment. Inmates may be referred to the Habilitation Unit either directly from one of the DOC's three Reception and Evaluation Centers or from another correctional facility at the recommendation of a social worker. In the former case, the inmate would already have undergone an initial 15 day assessment period. Entering inmates who are suspected of having a significant developmental disability are given a complete psychological evaluation by a psychologist. The evaluation also includes the Beta II and/or the Weschler Adult Intelligence Scale (WAIS) (both IQ tests), the Wide Range Achievement Test (WRAT, an academic achievement test), and an interview to determine employment history and pertinent psychological, social, and medical conditions. There are no formal tests to determine adaptive behavior, although the agency is currently considering adding an adaptive behavior scale such as the AAMR.

In general, inmates must meet the following criteria, although exceptions can be made at the recommendation of individual case workers. They must fall below 69 on the Beta II and score 4.5 or below on the academic tests. Furthermore, inmates who are dually diagnosed, mentally ill/mentally retarded, must be mentally stabilized prior to placement in the Habilitation Unit. The DOC has three transition care units for that purpose within its system. Inmates who meet the eligibility criteria are referred to the Deputy Warden of the Habilitation Unit. If this identification has not taken place at the reception center but at a later date, the referral is made to the institutional social worker, who assesses

the inmate's disability and forwards all information to the Deputy Warden of the Habilitation Unit.

An Admissions Committee meets at the Unit every other week to review all referrals and has the final decision regarding admissions. That committee is comprised of a Deputy Warden, Unit Social Workers, a Unit Special Education Teacher, a Unit Work Activity Coordinator, a Vocational Rehabilitation Counselor, and other representatives including health services as needed. In the event of capacity housing, a waiting list is maintained and admission priority given to inmates exhibiting the greatest need and potential for increasing independent functioning.

Profile of Unit Population. According to 1983 data, the mean IQ of the Habilitation Unit population is 55, with a range of 40-65. Forty percent have committed crimes against person(s); 60 percent property crime. Approximately 12 percent are sex offenders. Ninety-six percent are first offenders. Sentences range from youths age 17-21 serving indeterminate sentences under the Youthful Offender Act to those serving life terms. The mean sentence, however, is 9 years. The age of the population ranges from 18-33, with a mean of 25. Seventy-two percent of the population is black; the remainder white. South Carolina has found that approximately 4 percent of its inmate population meets the eligibility criteria for the Habilitation Unit.

Habilitation Program Components.[1] Each individual has a habilitation plan (IHP) developed by a multidisciplinary team. The IHP is usually comprised of the following major components: Special Education, Life Skills, Work Activity, Individual Counseling, and Recreation. The overall program is highly structured and requires inmates to be involved in scheduled activities at least 30 hours per week.

Special Education is provided by the Palmetto Unified School District, a separate school district under the jurisdiction of the South Carolina Department of Education, established to provide educational services to South Carolina inmates. Habilitation Unit inmates under the age of 22 receive services in full compliance with and funded through the Education of the Handicapped Act (EHA). Special Education services for the age 22 and over population are state funded. The education component is totally individualized with each client working on a different level. The Special Education component focuses on teaching basic academic skills that are necessary prerequisites for learning many of the life skills.

The Life Skills component provides training that focuses on the development of attitudes and behaviors that will facilitate the client's adjustment to community expectations and ability to live as independently as possible. Behavior development, human sexuality, health, alcohol/drug education, and other related subjects--such as household management, transportation, and pre-release preparation--are included in the Life Skills component. The Unit has a small kitchen where inmates can learn to prepare meals. Under special furlough permits issued by the Deputy Warden,

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[1] The South Carolina DOC has produced a 19-minute videotape describing the Habilitation Unit program which can be used as a training tool and model.

inmates accompanied by a social worker may occasionally go out into the community to practice skills such as food purchase and money management.

The Work Activity component emphasizes job acquisition and retention skills through group and hands-on activities in a simulated work environment that attempts to replicate community work roles. Currently, inmates are learning to wash cars in preparation for applying these skills in a small service prison industry. Inmate assistants have developed a competency-based curriculum and are providing the instruction. The Unit also has a small sheltered workshop where inmates are working on contracts with a fishing tackle company. To date they have successfully completed 26 individual contracts, ranging from tying tackle to painting eyes on fishbaits. They are paid by the piece, and 90 percent of their income is placed in a trust fund until they are released. A horticulture program provides further opportunity for training and work experience.

Individual counseling is provided by the Unit's social workers and focuses on assisting clients in dealing with emotions, clarifying values, and developing appropriate behavior. Emphasis is placed on problem-solving and decision-making skills.

The recreation program offers the clients an opportunity to learn to use their leisure time constructively and to interact appropriately with others. This component includes team sports, arts, crafts, and indoor games.

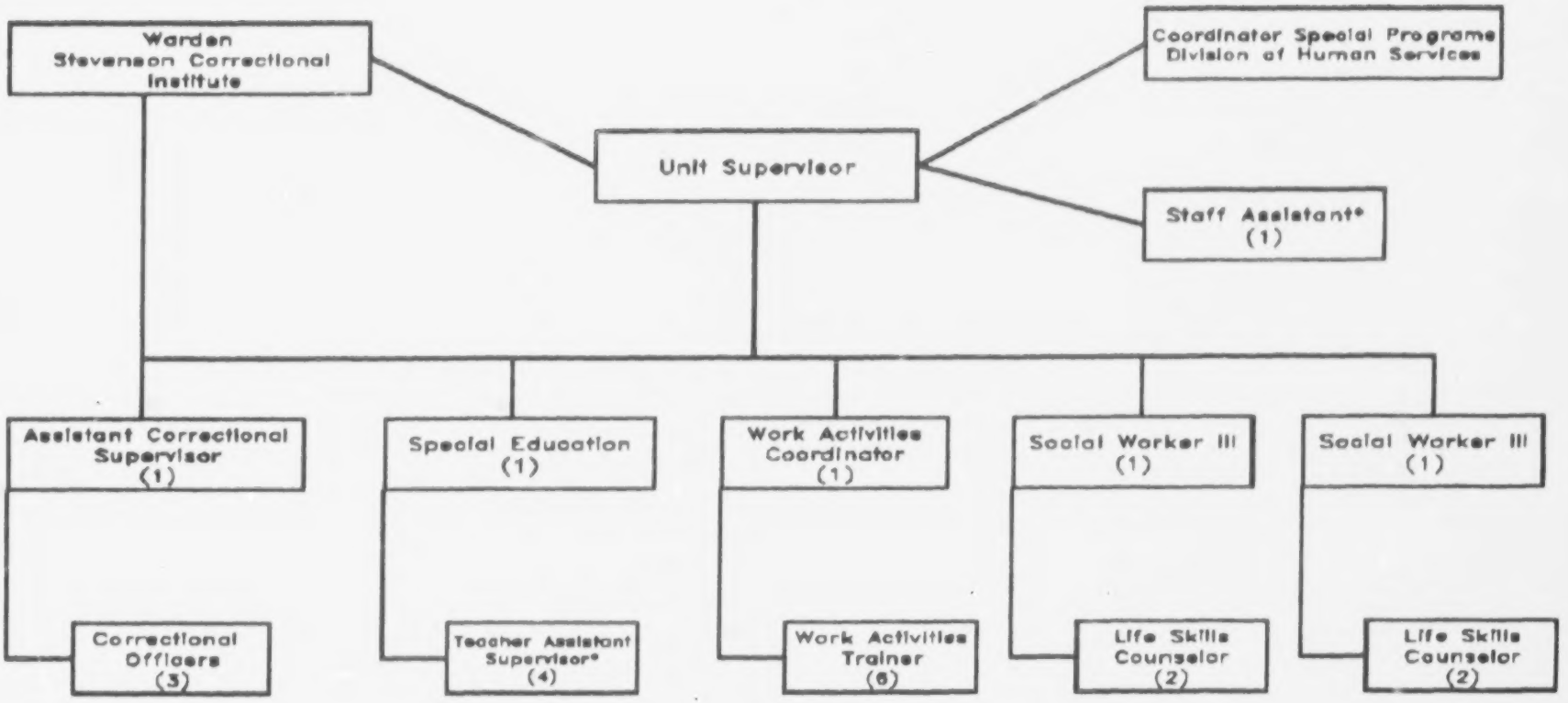
Upon completion of treatment objectives, participants are terminated from the Unit either through transfer or release. The final decision to terminate a participant is made by the Deputy Warden Supervisor of the Habilitation Unit in consultation with the senior social work staff. Approximately 3 months prior to a client's parole eligibility or completion of the sentence, social workers begin to formulate release plans in close coordination with the client. These plans vary according to the individual's needs and available resources. Independent or residential living arrangements, job placement, follow-up treatment services, community-based support group linkages, and vocational/educational training are among the components of these release plans. Established interagency linkages are a key to implementing such plans after release. Another unique feature of the Habilitation Unit is that social workers are allowed to appear with their clients at parole hearings to assist them in communicating their accomplishments and post-release arrangements with members of the Parole Board.

Habilitation Unit Staffing

Exhibit 5.1 on the following page provides an overview of the staffing of the Habilitation Unit. As indicated, it is quite staff intensive, with a client/staff ratio of approximately 1:6.

All teachers, educational counselors, principals, and educational administrators must be fully certified by the South Carolina State Department of Education. They must attend staff development and training sessions (10 days minimum annually) and subject/discipline workshops. Equivalent requirements in the social service and mental health fields

Exhibit 5.1
Habilitation Unit for the Developmentally Disabled



("*" denotes inmate Para-Professional positions)

apply to staff in the appropriate professional categories, with almost all staff having a Master's Degree.

The Unit's Social Workers serve as case managers and coordinate all aspects of a client's program with other disciplines. They are responsible for providing counseling, life skills, crisis intervention, health services, release planning, as well as coordinating mental health services through psychiatric and psychological consultants. In addition, a representative from the South Carolina Department of Vocational Rehabilitation is involved in determining a participant's eligibility for services under the Vocational Rehabilitation Act.

Inmate Para-Professional Staff

Another unique feature of the Habilitation Unit is the use of inmate para-professionals. Selected inmates are "employed" by the Unit to assist the professional staff in providing client services. These inmates--who are carefully screened, trained, and supervised--may hold such para-professional positions as Life Skills Counselors, Teacher Assistants, and Work Activity Trainers. They earn work credit equivalent to their specific job responsibility. In addition to their job duties, some are required to reside in the Unit's dormitory. They provide reinforcement of appropriate behaviors, crisis-intervention counseling, and positive role models. They also assist clients with family communication through telephone calls and letter writing.

Interagency Coordination and Cooperation

The Habilitation Unit receives a number of services through interagency agreements and coordination. The South Carolina Protection and Advocacy Agency (SCP&A) has been actively involved in many of the programs phases. It has not only provided advocacy and assisted in the development of the Unit but has also provided staff training, legal aid to inmates, and participation on task forces and advisory councils. The SCP&A makes monthly visits to the Unit to hear inmate grievances and problems and assists in resolving these without costly litigation. This agency was also instrumental in convincing the DOC Commissioner to hire a Section 504 Coordinator in central office. This position provides staff training in Section 504 implementation and handles complaints and grievances under that Act.

As previously mentioned, the DOC has established formal links with the Department of Vocational Rehabilitation and the Palmetto Unified School District to obtain needed direct services. The DOC has also established formal links with the Austin-Wilkes program, which provides post-release services to offenders, and with the Department of Mental Retardation for placements in programs under their jurisdiction as needed.

The Habilitation Unit is also supported by a Developmentally Disabled Offender Program Advisory Council appointed by the Deputy Commissioner for Program Services in accordance with DOC policy and procedure. This Council--of no more than 15 members--consists of a combination of

appropriate departmental and other agency or community representatives. The Council, which meets semi-annually, informs and educates others of internal program development, seeks professional expertise of others, and identifies and/or establishes community-based service linkages. The supplementary establishment of the Advisory Council brings in linkage with peers and experts and keeps the program open to new ideas and proposals. For example, among the recommendations made in the 1986 report were the acquisition of a recreation therapist and a more active role for the institutional social worker with regard to transitional and release plans for inmates who need such assistance.

At the request of the Director of the South Carolina Protection and Advocacy System for the Handicapped, a Study Committee for Handicapped and Special Needs Inmates was formed in 1986 to develop further recommendations for improving services for handicapped offenders in South Carolina. The Committee, chaired by Dr. Joann B. Morton, Director of Special Programs, consisted of Wardens of three correctional institutions; the Deputy Warden of the Habilitation Unit; the Director of the Divisions of Educational Services, Human Services, Health Services, and Resource and Information Management; as well as the Director of Security and the Chief of Classification. The committee conducted a series of meetings, site visits, and consultations on all aspects of programming for handicapped inmates. In addition, they received input from the South Carolina Advocacy and Protection Agency and the State Department of Vocational Rehabilitation.

The most important recommendation to emerge from this Committee was the appointment of the Agency 504 Coordinator. The recommendation was accepted by the Commissioner, and that assignment is now an integral part of the Deputy Commissioner for Program Services Office. The remainder of the recommendations dealt with further clarification of the already existing Policies and Procedures. The most significant areas cited were the standardization of definitions of handicapped status and more precise statements regarding classification and work assignments. For example, it was made clear that a handicapped status does not prohibit inmates from working if they are medically approved and that they will not lose their status by accepting a job assignment. Moreover, such inmates are to be encouraged to apply for work release. Finally, it was recommended that the institutional social worker develop and implement individualized transitional and release plans for those handicapped inmates who will need assistance upon release.

Program Achievements and Future Direction

Although there has been no systematic evaluation of the Habilitation Unit program in terms of client post-release success after release, the South Carolina DOC has indicated that the recidivism rate for these inmates over the past 3 years has declined from 35 to 8 percent. Although the Department takes great pride in the accomplishments of the Habilitation Unit, it also expresses a need for further improvement in several areas. The DOC acknowledges the need for systematic follow-up studies on clients. Another area that warrants consideration is the work activities and life skills for women clients. The women have day services and are transported to the Unit daily. While they will be involved in special education as of

1988, their programming is not as complete as that for male inmates. Furthermore, the physical facilities at the quite old Stevenson Correctional Institution, where the Habilitation Unit is located in an overcrowded and somewhat dilapidated wing, are inadequate to meet the needs of existing clients and programs.

Apart from these problems, the South Carolina Habilitation Unit constitutes a good model with its comprehensive program, multidisciplinary team approach, and network for community support. It is a model worthy of further study by correctional administrators seeking to establish better services for their inmates with mental retardation.

THE TEXAS MENTALLY RETARDED OFFENDER PROGRAM

The Mentally Retarded Offender Program (MROP) evolved as a result of a class-action suit (Ruiz v. Estelle) brought against the Texas Department of Corrections (TDC). In a 1981 Consent Decree the Court determined that by not recognizing the special habilitation needs of inmates with retardation, TDC failed to meet its constitutional obligation to provide constitutional conditions of confinement. Subsequently, a plan was designed with the assistance of Miles Santamour, a former member of the President's Committee on Mental Retardation, who also served as the court-appointed monitor over its implementation. On January 3, 1986, the Mentally Retarded Offender Plan was approved by the Court and has been in operation since at the Beto I Unit for male inmates and at the Gatesville Unit for female inmates. The program has since been approved by the monitor as being in compliance with the court-approved plan.

While various prison-based treatment programs for this inmate subgroup have operated across the country within the past 2 decades, the Texas project is (by virtue of its sizable handicapped population) both the most extensive and ambitious program of its kind. Planned for 1,000 inmates at the Beto I Unit and 100 women at Gatesville, the MROP housed 709 men and 46 women at the time of the site visit made in preparation for this Guide. The policy of TDC is also slightly different from those in other states insofar as the preference is to keep these offenders in sheltered units throughout their period of incarceration--as opposed to mainstreaming them after a specified period of programming. Inmates determined through the diagnostic process to be mentally retarded are required to live in the secure setting offered by the TDC MROP program and perform work assignments. They can, however, refuse "treatment," e.g., participation in education. Furthermore, eligible inmates may participate in mainstream educational and work activities, including prison industry.

The goal of the MROP program is to provide inmates with mental retardation with the opportunity to learn academic, vocational, and social adaptive skills that will enable them to function independently in the community upon release. In addition, they are to be housed in a safe environment and receive support and encouragement to pursue these goals. Thus, there are four areas of emphasis in the program: 1) habilitation, 2) social and professional support, 3) security, and 4) continuity of care.

Education and behavior management are the key elements in the habilitative process. A wide variety of special, academic, and vocational programs are offered by the Windham School District, which provides all educational programming within the TDC.[2] Special education is made available to all MROP clients regardless of age. The Special Education component is implemented in accordance with EHA and, through monitoring by the Texas Education Agency, has been found to be in full compliance with federal law. The behavior management component is guided by a separate set of policies and procedures developed for the MROP specifically.

The following discussion will focus on the elements of the MROP which we found to be either unique or exceptionally good as compared to other MR programs reviewed and which are replicable by other correctional agencies. These are: (1) the referral and assessment system; (2) the functional curriculum; (3) the behavior management program; and, (4) the utilization and training of interdisciplinary teams.

Referral and Assessment

Referrals may be made by Windham School System staff, Texas DOC personnel, the student, or interested others. TDC determines eligibility for placement in the MROP; Windham determines eligibility for special education services. Generally, TDC tests inmates at one of its Diagnostic and Reception Centers. Tests used include the Beta II or Culture Fair intelligence tests[3] for gross screenings and the Weschler Adult Intelligence Scale (WAIS-R). TDC also administers the Street Survival Skills Questionnaire (SSSQ)[4] and, to assess the vocational interests of non-readers, the Reading-Free Vocational Interest Inventory.

Generally, inmates functioning with an IQ of 70 or below are referred to the MROP program. However, MROP staff may refer some inmates to the general population if they determine that they are not in need of the special security or programs offered by MROP. Inmates with an IQ up to 73 may be confined to the MROP if they are in need of the security of that program in order not to be victimized in the general population.

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[2] The Windham School System, established in 1969, is the first school district in the nation developed specifically to serve incarcerated adult offenders. It functions as a fully accredited local education agency (LEA) with the Texas Board of Corrections serving as its school board.

[3] Culture Fair Test, by R.B. and A.K.S. Cattell, Western Psychological Services, Los Angeles, California, 1961.

[4] The SSSQ is individually administered to inmates to determine their level of adaptive behavior. It taps nine areas ranging from basic concepts and functional signs to public services and measurements. Its advantage over more traditional adaptive measures such as the Vineland scale is that parents (who may be difficult to contact) are not a source of information on the inmates adaptive behavior. This instrument was developed by Dan Linkenhoker, and is published by Common Market Press, P.O. Box 45628, Dallas, Texas 75245.

Once referred to a MROP unit, Windham School System staff completes the assessment and determines the individual inmate's needs in terms of education. The Windham principal is responsible for appointing someone to collect data from the TDC Diagnostic and Reception center, school records, recent vision and hearing screening, an updated general health history inventory, and any other history provided by the student and/or parents. Assessment by an educational diagnostician serves two purposes: to determine the presence or absence of a physical, mental, or emotional disability which may be contributing to a student's educational need; and to determine the presence or absence of a significant education need requiring special educational services. The assessment must be performed in the student's demonstrated dominant language, with consideration of any cultural differences that may affect the student's performance.

The written report following this initial stage of assessment is made by an Admission, Review, and Dismissal (ARD) Committee within 30 days. Once it is determined that the student meets special education eligibility criteria, an individual educational plan (IEP) with instructional placement designation is developed and reviewed annually. A comprehensive re-evaluation is conducted at least once every 3 years.

The IEP adheres closely to the provisions cited in EHA. This includes statements of annual goals and short-term objectives, the specific educational services required, the instructional schedule, the related services necessary to support the IEP, and the procedures by which the teaching personnel measure, record, and report student progress.

The Functional Curriculum

The functional curriculum includes Academic Instruction, Health Education, Vocational Training, and Behavior Management.

Academic Instruction. The main areas of academic instruction are reading, language, and mathematics. The Windham School District has developed a competency-based curriculum for all academic areas that is utilized in all correctional institutions in the state. It is used in the MROP program as well. Furthermore, a curriculum developed through the State Department of Education for potential drop-out students, with heavy emphasis on life and pre-employment skills, is also used with MROP students. A special pre-release class is offered, including instruction in money management, street signs, bus schedules, and employment information. Lesson plans for all subjects in the IEP's include objectives, strategies, and resources. Students spend 3 hours a day, 5 days a week in school. They are also free to attend evening classes, which are open to everyone. The orientation that accompanies instruction focuses on having the inmates understand the need for commitment to finish a learning task.

Most of the academic instruction is offered in the MROP's new schools, which are heavily equipped with audio-visual aides and computers. Those students who are in lock-up can choose "in-cell" studies, for which individualized packets are provided. However, the number of students placed in segregation is less than in the general population. Because the

staff gives these students support and the assurance that they are ready to help, there tend to be less disciplinary episodes in the MROP units than in the general correctional population.

Health Education. In addition to the academically based instruction, the curriculum includes topics such as sex education, health and hygiene, information about AIDS, and the effects of drug abuse on general well being. In the women's unit additional emphasis is placed on teaching good parenting. Most of these women are either child abusers or were abused themselves in childhood. And since many of them are of childbearing age or have small children, this facet of the program is considered crucial.

Vocational Training and Work Experience. The majority of mentally retarded inmates who arrive at the Texas DOC are school dropouts with few work skills and extremely limited work experience. Therefore, vocational education is a vital component of the program. The subjects offered by the MROP for the men at Beto I are horticulture, plumbing, building maintenance, masonry, landscape horticulture, and building construction. The women at the MROP unit at Gatesville are offered Institutional Home Management and Consumer and Homemaking Education at the Unit and have access to additional vocational programs at adjacent female correctional institutions. Safety training, offered in conjunction with all vocational courses, outlines elements of safety organization and provides specific pointers about potential hazards in equipment and on keeping work areas safe.

Like all other inmates in the Texas Department of Corrections, MROP students have institutional work assignments such as cleaning and laundry. A few MROP inmates participate in prison industry. For example, at the Beto I Unit some MROP inmates are working--reportedly successfully--with general population inmates in the sign plant. There are no sheltered workshops. Industry participation, however, is to date very limited for the males and not available for the females.

Behavior Management. Since deficiencies in adaptive behavior are part of the eligibility criteria for admission into the MROP, behavior management is of necessity an important MROP component. Behavior management is strictly guided by special policies and procedures prepared for MROP that are part of TDC's Manual of Policies and Procedures for Health Services.

The Behavior Management program operates with two levels--a "Regular" program and a "Model" program. Clients in the Regular Program are given the same rights and privileges as clients in the general population. They also retain access to all MROP educational, recreational, and treatment programs. If, for a predetermined period of time, appropriate behaviors are manifested at a sufficiently high frequency, the client is graduated to the Model Program and receives the highest level of privileges that can be granted in the prison environment.

Clients are observed and points are awarded for desirable behaviors in the following areas: work, school, group or individual therapy, cell maintenance, and personal hygiene. There are "step increases"--as well as "step decreases"--in the Regular Program by which performance is measured

within a given period of time. If a client fails to be promoted to the Model Program after a period of 12 weeks, the client's treatment team must convene for assessment and, if necessary, must modify the client's Individual Habilitation Plan (IHP), a combination of the IEP and a daily living skills plan tailored to the individual student.

Privileges in each of these programs are also devised as a motivational tool and to encourage social skills development. For example, whereas clients in the regular program may only use the phone for emergencies, those in the model program have the opportunity to place additional calls. Whereas regular clients are assigned jobs and education program components by the treatment team, model clients have significant input into such assignments. Furthermore, model clients may display art works in their cells, live in the "Model Wing," have photographs taken to be sent home, and be recommended for furloughs. Model clients are also excused from the multiple daily inspections and evaluations that are part of the point system.

Staffing and Staff Training

Staffing of the MROP programs is based on the principle of the treatment team with specially trained correctional officers serving as part of that team. It is highly staff-intensive and therefore quite costly. For example, the Gatesville MROP, with capacity to serve 100 women clients, is currently serving 46 women clients and is staffed as indicated in Exhibit 5.2.

Exhibit 5.2
Staffing of the MROP for Women

TDC Staff	Windham Staff
1 Program Director	1 Vocational Teacher
1 Psychologist	2 Special Education Teachers
1 Psychiatrist (PT)	1/4 Diagnostician
5 Case Managers	2 Academic Teachers
1 Secretary	
1 Medical Records Technician	
1 Nurse	
23 Rehabilitation Aides	
1 Sergeant	

As indicated in the previous exhibit, the treatment team consists of a varied group of professionals, all of whom are certified in their particular discipline. The team develops and reviews each student's Individual Program Development, is responsible for making program and housing changes, and supervises measures taken to deal with disciplinary infractions. The case managers must consult with the classroom teachers every 3 months and are also responsible for directing any group

conferences. The staffing at BETO I is structured in a similar manner, but in proportion to their inmate population.

Basic requirements specify that teachers must have a Bachelor's degree with an endorsement in Special Education that includes a specified number of credit hours in learning disabilities, emotional disturbance, physical disabilities, and multiple handicaps. After employment, pre-service training includes workshops on special education, Chapter I, and orientation on appropriate handling of and communication with mentally retarded inmates. In addition, the teachers receive in-service training. For example, a recent in-service program consisted of a day-long seminar with presentations on such topics as child abuse, dyslexia, and psychotropic drugs, delivered by experts in each of these areas. Teachers receive a total of 12 days of in-service training per year. This system of personnel development is periodically monitored and evaluated by the Special Education Department of the Texas Education Agency.

Correctional officers, who serve as "Rehabilitation Aides," in the MROP units receive 80 hours of training beyond standard CO training, 40 hours of which are provided by the Units' treatment staff. This training includes special suicide awareness training (10 hours) and 2 weeks on-the-job training. Currently under consideration is a plan that would have treatment and security staff under one heading, with treatment--rather than security--staff serving in the supervisory role.

Program Evaluation

To date, there has been no formal program evaluation of the Texas MROP. It has, however, been monitored since its inception both by a court-appointed expert in mental retardation and by the Texas Education Agency for EHA compliance. The court monitor has recently "approved" the program while noting that some areas still need development or improvement: (1) There should be more integration between the case managers and the special education teachers; and, (2) Some counseling background for teachers (perhaps accomplished during in-service training) would be beneficial.

Individuals closer to the situation, such as the Warden and the Principal at Beto I have other, more immediate concerns. They cite difficulty following certain guidelines (created by court order) regarding staffing quotas. They also acknowledge a need for more classroom space, more work stations for pre-vocational skills training, an additional psychologist, better adaptive behavior assessments, improvement of the parenting program in the women's unit, and a transition program that maintains a follow-up and follow-through procedure on released students.

One measure of success should be noted. U.S. District Judge William Wayne Justice, who ordered massive changes in the Texas prison system in 1981, visited Beto in March, 1987, and declared that he had found it a "bright spot" in an otherwise bleak prison picture. And in the words of an inmate (age 39), who could not read or write before coming to Beto I, and now writes his own letters, "My special education teacher taught me everything I know."

GEORGIA STATE PRISON

The Mental Health/Mental Retardation Program at Georgia State Prison in Reidsville was selected for inclusion in this Guide for several reasons. It is unique in that it is located in a maximum security prison housing inmates with backgrounds of violent and assaultive behavior. These inmates are the most difficult to manage in the state system; many also suffer from acute mental health and behavioral problems, and some are mentally retarded.

This program grew out of a 1973 lawsuit (*Guthrie v. Evans*) brought by inmates at GSP against the Commissioner of the Department of Offender Rehabilitation. At the time of the legal action, services to those inmates designated mentally retarded had been minimal, consisting of sheltered living assignments. Only those inmates who exhibited grossly inadequate or inappropriate behavior were assigned to shelter, and there was little effort made to differentiate those inmates who were mentally ill from those who were retarded.

The court order entered as a result of the lawsuit requires that services be provided to mentally retarded inmates at GSP and that habilitation shall include educational, vocational, and life skills programs complemented by group counseling. It was mandated that in no instance should the safety and health of inmates, staff, or the community be compromised in the delivery of these services; resolution of any conflicts between security issues and treatment issues must insure that the medical, psychiatric, or treatment needs of the inmate be met. A mental retardation expert was to be called in as a consultant to assess the number of clients to be served and the services to be provided. It was decided that this consultant would evaluate the program during and after the first year, and that a monitoring process, conducted by court-appointed special education monitors, would be in effect thereafter.

Program Plan, Policies, and Procedures

Under the auspices of the Georgia Department of Offender Rehabilitation,[5] a Mental Health/Mental Retardation Plan was established in 1979 to provide a service delivery system at Georgia State Prison consistent with the needs of its handicapped population. The system was to be of a holistic nature, utilizing an interdisciplinary approach to treatment. Since a large proportion of the Reidsville inmates serve ten-year or longer sentences for violent crimes, objectives for their programming emphasize the reduction--or alleviation--of basic adaptive dysfunctions. Also, because many of these inmates serve lengthy sentences (life terms are common), more emphasis may be placed on learning how to adapt and cope in prison than in the community after release.

The plan that was finally adopted includes specific information as to the mission and goals of the program, organization, staffing, training, and

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[5] The Georgia Department of Offender Rehabilitation changed its name in 1984 to the Georgia Department of Corrections.

service delivery. It further includes the policies and procedures that guide its implementation. The following are the major areas addressed in the policies and procedures.

1. Treatment Plans. Treatment plans are developed by GSP MH/MR personnel for each inmate. Each plan states the treatment goals that can reasonably be achieved within a designated time interval. The plan is reviewed at least quarterly for potential modification. The inmate may review his treatment plan periodically with his individual counselor, unless it is determined that such review is detrimental to his physical or mental health.

2. Organization and Administration. Supervision and decisions regarding services are under the direction of the appropriate professional and technical staff. A quality assurance committee periodically reviews and monitors the quality of treatment at the facility. This committee operates outside the sphere of influence of plaintiffs, defendants, or the Court.

3. Standards. Standards of services are developed that are consistent with those of the American Medical Association, the American Association on Mental Retardation, the American Correctional Association, and the Department of Offender Rehabilitation.

4. Classification. Before an inmate with mental health or mental retardation needs is classified, consultation from professional MH/MR staff is required.

5. Mental Health Records and Disciplinary Action. Mental health records are separated from the institutional administrative files. When inmates become violent or display signs of imminent violence, restraints are applied when other interventions have failed. They are not used for punishment under any circumstances. Finally, the MH/MR team leader signs off on any restraints which are imposed and enters written documentation of all stages of the restraint procedure.

6. Involuntary Treatment. Finally, if an inmate refuses mental health treatment and presents a substantial risk of harm to himself or others, or is unable to care for his own personal health and safety, "due process" hearings proceed. The inmate is advised of his "due process" rights and the right to a hearing. The inmate's MH/MR Counselor assumes the responsibility for preparing the necessary documentation for the hearing and functions on behalf of the State in presenting the case.

7. Team Demographics and Training. According to the Organization Plan, GSP has the following positions in the MH/MR Team: Director, Mental Retardation Specialist, Senior Counselors, Senior Behavioral Specialist, Psychiatric Nurse, and Special Education Teachers. These team members are expected to

participate in the on-going training sessions periodically scheduled, as well as in departmental level training sessions at the Training Academy.

What follows is an outline of the procedural process used for program implementation. It is accompanied by a commentary on the problems and successes which have ensued.[6]

Evaluation Procedures. The initial step in the GSP program is the identification of those inmates with significantly subaverage general intellectual functioning. All inmates who have a Culture Fair[7] IQ of 70 or below, or no IQ as a result of an inability to comprehend the directions, are invited to be tested with the Weschler Adult Intelligence Scale (WAIS) or its revised form, WAIS-R. Since there are no forensic psychologists in the area, school psychometrists are recruited to administer the tests.

Prior to the implementation of an individual mental retardation program, the WAIS protocol report is evaluated by the mental retardation specialist. The focus of evaluation is the spread of subtests on the WAIS protocol, the administrator's comments regarding the inmate's effort, attitude, and/or unusual behavior during testing, and any anecdotal information which might discredit the test's validity.

The next criterion of determination is the age of onset of mental retardation or developmental impairment. This is often difficult to ascertain. First, if retarded, the inmate might be unable to report the developmental indicators of retardation. Furthermore, tracking the information through family members may be time-consuming or even impossible. Third, the inmate might appear functionally retarded as a result of substance abuse. These barriers are, however, factored into the evaluation process.

The final criterion of determination is the assessment of adaptive behavior. Adaptive behavior, being situation specific, may be appropriate in one situation and not appropriate in another. Therefore, no standard or instrument for assessing adaptive behavior is as reliable or valid as an IQ test. This is more the case in the prison culture, where skills necessary for adaptation in a penal setting are different from those needed in society-at-large. Therefore, there was general agreement at GSP that the Vineland Social Maturity Scale and other Adaptive Scales needed to be supplemented by other approaches to assessment. They included: a social history from the diagnostic center; examples of the inmate's writing, either in correspondence or on institutional forms; accounts of

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[6] The commentary is derived from a Technical Assistance report authorized by the National Institute of Corrections (completed January 1986) and from Dr. Jane Hall, the Mental Retardation Specialist at GSP. Dr. Hall also documented her experience with the program in her article, "Identifying and Serving Mentally Retarded Inmates" (Journal of Prison and Jail Health, Vol. 5, 1985).

[7] Test of "g"-Culture Fair, by R.B. and A.K.S. Cattell, Institute for Personality and Ability Testing, Champaign, Illinois, 1960.

circumstances surrounding disciplinary reports; work assignments and evaluations; structured interviews with persons who have had contact with the inmate over time; and an interview with the inmate, conducted by a qualified psychiatrist or psychologist.

Development of the Individual Treatment Plan. When the entire assessment procedure has been completed, an Individualized Treatment Plan (ITP) is prepared. The following is a sample of the components that would generally be found in an ITP:

1. Management/housing: inmate watch for presuicidal behavior or other potential destructive activity;

2. Behavioral/psychological: counseling provided at intense levels initially, then reduced as appropriate;

3. Educational/vocational: prescribing the type of program from which the inmate is in a position to benefit;

4. Recreation/activity therapy: emphasis on gross body movements to improve simple skill levels; and,

5. Work assignment: scheduling a work assignment that will be therapeutic in terms of reducing stress and improving self respect.

Since many of the mentally retarded inmates at GSP have a dual diagnosis of mentally ill/mentally retarded, educational plans are not heavily weighted with academic instruction. Rather, the curriculum topics are based on the inmate's length of sentence. ITP's for long-term inmates focus almost exclusively on prison adaptation and written communication. Examples of instructional content include learning to read functional/environmental words, mail and package regulations, visiting lists, printed rules and regulations. Instruction in writing includes personal letters, institutional forms, and business letters. In math, instruction includes calculation of commissary prices, money orders, calculation of time served and of time before parole eligibility. ITP's for short-term inmates emphasize the basic knowledge required for free world adaptation and street survival. Reading instruction focuses on want ads, application forms, safety warnings, and signs. Computation skills are applied to money management (e.g.,learning to make change), vocational math (e.g., learning measurements), and general consumer education.

In addition to incorporating these instructional goals in the ITP's, the planning committee considers the anecdotal history of the inmate's behavior when formulating the ITP. For example, if an inmate has consistent disciplinary reports for impulsive behavior, goals directed at developing aggression control and problem solving are included.

Instruction is provided in individual or small group sessions in accordance with security requirements. A major issue for the delivery of a program is the interaction between security, care, and treatment. Many of the mentally retarded are housed in "lock-down" situations and restricted to their cells. This necessitates one-on-one instruction. When possible,

group sessions are held; this facilitates teaching socialization skills. The group sessions, however, are conducted only with those inmates with the lowest security/custody ratings and the most freedom.

Vocational training for mentally retarded inmates at GSP is part of the ITP and has a two-fold purpose: to develop work skills for successful adjustment to community employment; and to learn how to work collaboratively and cooperatively with other workers. For the more severely disabled inmates, groundskeeping and custodial building maintenance are the supervised work assignments. For the less severely disabled inmates, there is a sheltered workshop in which state park picnic tables and trash cans are assembled. Inmates are taught to master simple electrical tools to be used in construction. Under the supervision of an award-winning correctional officer, this shop has turned out products that have consistently earned higher quality control ratings than similar products made by non-handicapped inmates in the regular prison industry.

Upon satisfactory completion of work tasks, inmates are given incentive coupons--two per assignment. Since there is no pay policy in the Georgia correctional system, incentive coupons have proven successful as a motivational strategy. For example, upon earning forty coupons, inmates are awarded a fishing trip to one of the ponds within the prison compound.

Transition Policies and Procedures. Six months prior to an inmate's release, the Counselor who has worked directly with that individual notifies the Rehabilitation Services counselor in the county to which he is being returned. The Special Education Coordinator in the central office maintains a database of these students and provides the field staff with a quarterly print-out that includes the home counties. To the greatest extent possible, a follow-up record on that individual is maintained and, where appropriate, the local MH/MR unit is notified of the individual's whereabouts and status.

In preparation for discharge, and depending on the level of development of the inmate, activities are assigned and incorporated into the therapeutic/educational goals of the individual's treatment plan. This may include Assertiveness Training, Stress Management, and GED programming. The information contained in the Street Skills Survival Questionnaire is discussed with the inmate in order to prepare him for free world survival. Finally, an appointment is made for the inmate with the Department of Human Resources (DHR) agency in his county. DHR is alerted and will provide assistance regarding living arrangements and job possibilities.

Interagency Agreement

In order to ensure that the MH/MR program is implemented both in letter and in spirit in Georgia state correctional institutions, a state cooperative agreement between the Georgia Department of Corrections and the Georgia Department of Education was made in 1979 and revised in 1982. The Agreement contains language from EHA which is relative to the state education agency's requirements for compliance (found in Section 612 of the Act).

The Agreement is divided into two sections: the responsibilities of the Department of Corrections and the responsibilities of the Department of Education. In the former category, the services enumerated follow the implementation regulations as stipulated by EHA. In the latter, all the procedures necessary for the maintenance of educational and related services as mandated by EHA are listed.

Evaluation

Once the MH/MR program was underway at Georgia State Prison, the Georgia Department of Corrections requested technical assistance from the National Institute of Corrections for a consultant to visit the program. Dr. Herbert Goldstein visited GSP in November 1985 to evaluate the program and submitted a report which addressed the current program, a planning agenda, and recommendations for future programming.

In all, the report was both encouraging and prescriptive. It noted that the program was relatively well established and implemented, and that the remaining problems were those generic to all correctional institutions. For example, there was difficulty in finding enough certified teachers in Reidsville, a rural, somewhat inaccessible area. This has resulted in staffing shortages. However, it also created the potential for new approaches to staffing. For example, summer interns from the state university now work as recreation therapists. While this does not ameliorate the teacher-student ratio for special education programming, structured recreation has provided adaptive and socialization skill training, an important component of the individual treatment plan.

The MH/MR program at GSP is still in its early stages. Therefore, its total efficacy cannot yet be ascertained. But there is sufficient evidence that the services in the program have helped the mentally retarded inmates better adjust to institutional life. Moreover, the warden at this facility reported that there have been fewer disciplinary problems and riot conditions since the program was begun. This is attributed to, among other things, the special program for MH/MR inmates. The warden also partially attributed the American Correctional Association (ACA) accreditation of GSP to the innovative efforts of this unprecedented MH/MR program.

THE TREATMENT PROGRAM FOR DEVELOPMENTALLY DISABLED OFFENDERS, CAMARILLO STATE HOSPITAL, CALIFORNIA

Camarillo State Hospital and Developmental Center is a facility which houses and treats both mentally and developmentally disabled individuals. It is administered by the California State Department of Developmental Services and is located in Camarillo, California. The Treatment Program for Developmentally Disabled Offenders has a bed capacity of 169 and averages 160 treatment staff. The program is licensed by the state under Title XX as an Intermediate Care Facility and has been accredited by the Accreditation Council for Services to Individuals with Developmental Disabilities (ACDD) since 1983, and by the Joint Commission for Accreditation of Hospitals (JCAH) since 1987.

The policy for admission to the Camarillo State Hospital and Developmental Center is the following: The prospective client must be deemed in need, for therapeutic reasons, of a highly structured 24-hour program; of a relatively long-term concentration of highly specialized resources; or of a secure environment as a buttress against anti-social behaviors associated with the disability. Persons meeting these general conditions usually carry a dual Mentally Disabled/Developmentally Disabled diagnosis and present a danger to themselves or others.

The client population generally consists of those individuals who are considered a danger to themselves and/or others. Most admissions allow for a maximum of 1 year residence, but the individual may be recommitted if admission criteria are proven again in a court of law. An additional type of commitment pursuant to the California Penal Code provides a 3 year limit of commitment to the facility in the "incompetent" status. The criteria for admission to this treatment program are determined by IQ range and social functioning level. The individual must have a minimum IQ of 55 and an ability to comprehend and participate in the program--which emphasizes behavioral development. The types of crimes committed by the clients range from petty theft and runaway behavior to murder, rape, and sexual molestation of juveniles.

While there is no standard Policies and Procedures document for this program, there is an extensive Interdisciplinary Team Process Manual which outlines the components of the program and the methodology for developing the IHP. The administration of this program differs from others discussed in this chapter insofar as it functions within a state facility. There is no interfacing with the State Department of Education. Moreover, it receives funding through the State Department of Developmental Services rather than through the state's educational or correctional agencies.

Mission and Role of the Program

"Habilitation" is the key term in the Camarillo Treatment Program. It is a broad reference and applies to those procedures and interventions designed to help an individual with a developmental disability achieve greater mental, physical, and social development. By definition, the habilitation process enhances the well-being of the individual, teaches skills, and increases the possibility that he/she will make progressively independent and responsible decisions about social behavior, quality of life, job skills and satisfaction, and personal relationships.

Development of Individual Habilitation Plans

Each client admitted has an interdisciplinary team consisting of a psychologist, social worker, rehabilitation therapist, speech therapist, teacher, nurse(s), physician, and (when possible) responsible relatives. A Client Plan Coordinator is responsible to assure that appropriate services are identified by the team and provided throughout the client's stay.

Within 30 days of admission, the client is assessed/evaluated by the interdisciplinary team and an initial conference is held to develop an IHP.

The core of the programming is a structured behavioral point system designed to increase responsible behavior. Throughout the day, each person receives an hourly point score for his/her behavior and participation in that hour's activity. There is a reward system whereby community outings to concerts, shopping, dinners, fishing trips, etc. offer incentive for behavioral progress. Every effort is made to avoid staff personalizing of award points.

Goal-setting is the primary criterion for establishing the client's IHP. Goals are divided into five areas: Domestic, Academic, Vocational, Community, and Leisure. This represents a natural breakdown of how the individual spends his/her day--living somewhere, working or going to school, and recreating. At the Camarillo facility, the interdisciplinary team sets goals by examining the client's current and future environments and considering entry criteria of the projected residential placement, of the projected vocational or school placement, and of the projected leisure activity participation. Some individuals will have more than one goal in each area; minimally, goals are established for managing everyday living.

The goals are stated in an observable, measurable, single behavioral outcome with success criteria and time limits set for each task. They are also given priority and developed according to such assessment information as learning rates, strengths, and areas of need. These goals are periodically measured, usually monthly. Reinforcement remains the standard way of teaching these skills. When a specific skill has been developed with continuous reinforcement, the next step is to thin the reinforcement. Finally, the objective is to generalize that skill to other stimulus situations--such as different environments. The task then becomes part of the tracking known as "integrated training" and becomes part of the larger management plan.

Goal requirements must consider all of the following items:

1. Individual preferences regarding work activities in any or all of the five areas listed above;
2. Projected movement to a less restrictive setting;
3. Increased individual independence;
4. Normalized rhythm of life;
5. Chronological age appropriateness; and,
6. Acceptance by non-handicapped people of the same age.

Program Components

A distinctive feature of the Camarillo program is its "Integrated Training" model. It is a process created to integrate the basic skill training areas: communication, translocation, motor activity, socialization, and adaptive behavior into training in the life skills areas: domestic, vocational, leisure, academic, and community skills.

Throughout the day, clients attend group sessions that fall into the following classifications.

1. Problem-solving. At these meetings clients learn to deal on a cognitive level with typical problems faced on a day-to-day basis.

2. Social skills. Specific skills--such as giving compliments, expressing appreciation, expressing affection, encouraging others, asking for help, responding to anger--are identified and displayed appropriately. They are then reinforced through interaction in the group setting.

3. Leisure skills. Clients are taught specific game skills and how to self-initiate leisure activities, at the same time displaying appropriate social interactions during such activities.

4. Life skills. This training component emphasizes participation of the client in the activities of normal life. The primary consideration is to expose the client to as many real-life situations as possible. (For example, the client would be taken to a local fast food restaurant where she/he participates in all activities including ordering, paying, taking food to the table.)

5. Sex therapy and education. Since many of the clients' interactions with the criminal justice system stem from some form of illegal sexual activity, a good deal of training includes sex therapy and sex behavior modification. The unit psychologist generally manages this unit, which takes place in a group setting. Through lecture, behavior rehearsal, role-playing, and group discussion, clients learn to identify appropriate behaviors for the future in reaction to both a sexual crisis and non-crisis situation. Body awareness, family planning information, and sex education (including prevention of venereal disease) are also vital training subjects.

6. Vocational training and work experience. This area includes training in specific job skills as well as job related skills, such as punctuality, task completion, and getting along with others. The training is to the greatest extent provided in actual job settings. These vary according to the abilities, limitations, and job readiness of the client. A client may start in a Work Activity Center or a Sheltered Workshop. A further stage is "Supported Employment," when the client is in a regular work environment but is assigned a "trainer" to provide any additional training, problem solving, or guidance the client may require to succeed in the job.

7. Academic training (also with a life skills approach, e.g. teaching math through training in money management.) It should be noted that an IEP is incorporated into the IHP as appropriate. Academic studies, however, are not the main focus

of training in this program since most of the clients' needs relate more often to life skills, such as vocational training.

8. Competency training. Those residents who have been committed as incompetent to stand trial are taught to identify such legal terms as charge, trial, testimony, bail, probation, and warrant. They discuss the charges leveled against them and practice the steps involved in courtroom proceedings.

Client Training and Activities System (CTAS)

In 1987 an extensive Interdisciplinary Team Process Training Manual was completed. It provided guidelines for interdisciplinary team functioning, documentation, and evaluation of the program planning process. At present, there is an effort to collect and interpret the training materials and case data in order to determine future planning.

Among the plans is a statewide development of the life skills model (assessment based) for all the developmental disabilities centers, known as the CTAS program (Client Training and Activities System). As it is presently being developed, the model could also be utilized for the growing number of offenders with developmental disabilities who are being kept in the community rather than incarcerated. (The state of California has recently made a greater effort to order community-based alternatives for this population.)

The CTAS system is valuable because it offers practitioners a pragmatic process for evaluating an individual's level of development in major skill areas. It also provides the evaluating and treatment teams with a system through which they can determine the member of the team responsible for evaluating each skill area. It further provides a catalog of evaluative tools or instruments (tests) to be used for each skill area and for every level of development within a particular skill area. For instance, an individual who appears to be on the third level of development in the domestic skills area can be evaluated by a variety of assessment tools listed in the catalog that are specific to that skill area and level of development. Once the team determines the individual's specific needs within each skill area, a matrix is developed for treatment purposes. Another catalog is then used which provides the treatment team with specific curricula for designing the next level of development. All of the materials in both catalogs are standardized and available on the market.

Conclusion

The Camarillo project has reportedly had a successful outcome since its inception. It has been awarded 2 year accreditation from the ACDD since 1983, and recently received a 3 year accreditation from the JCAH in 1987. It also was recently monitored under EHA with commendations. The area most praised was the life skills training. A measure of the success of the program--which focuses on clients who are more disabled than those usually found in correctional facilities (those with IQs in the lower range of the "mild retardation" category)--is the low return rate of its clients, 6 percent, as cited by the administrator. He points to the total

integration of program components and the highly structured environment as keys to this success. This model, however, is very staff intensive (1:6 staff per client) and therefore also very expensive. Estimated cost per client (including both capital and operational costs) is between $140 and $180 per day. By comparison, it should be pointed out that the state of California currently pays $40 per day per client in community-based facilities serving a similar clientele. This would make the model prohibitive in terms of replication in regular prison settings. However, it is our belief that the assessment process and the life skills orientation of the Camarillo program could be adapted for use in MR/MH programs in correctional facilities in other states.

THE NEBRASKA INDIVIDUAL JUSTICE PLAN[8]

The state of Nebraska has developed a unique approach to dealing with the mentally retarded offender: a community-based alternative to incarceration. Although the priorities of this Guide remain related to special education programming in the prison context, there are features of the Nebraska Individual Justice Plan (IJP) that are applicable to prison programming and therefore deserve review in this chapter. They reinforce our emphasis in other sections of the Guide on the importance of enlisting community participation with the criminal justice system in the treatment of disabled offenders.

A History of the Program

In 1980 the United Church of Christ in Lincoln, Nebraska, under the auspices of the Offender Aid and Restoration Agency, awarded a grant to Crime and Community, Inc. to develop and implement an alternative plan to incarceration for mentally retarded offenders. The overall mission was to divert these individuals from jail and to enroll them in a treatment program that would help them deal with their deviant behavior and avoid the potential for victimization and neglect in the correctional environment. The rationale was stated in these terms: since correctional facilities typically house individuals with aberrant behavior, they do not constitute a constructive learning environment for offenders with handicaps who need to learn normative patterns of behavior. The second objective was to involve community members in the plan so that these offenders could remain in the community with appropriate supervision and support. Thus the IJP emphasized strong team involvement coupled with the linkage and coordination of various professional and service agencies and resources. In 1982 the Nebraska Governor's Planning Council on Developmental Disabilities further funded Crime and Community, Inc. to create a model for

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[8] This program description is based on telephone interviews with IJP staff and the following written sources: (1) IJP Symposium: Proceedings. Omaha, Nebraska, 1985. (Funded through a grant from the Office of Human Development, United States Department of Health and Human Services); (2) Jean Morton, DeAnn Hughes, and Eric Evans, "Individualizing Justice for Offenders with Developmental Disabilities: A Descriptive Account of Nebraska's IJP Model," The Prison Journal, 1 (1986): 52-66.

this special project, to field test it, to hold a statewide training symposium for representatives of the developmental disabilities and criminal justice systems, and to report on early results of the experiment.

Developing the Individual Justice Plan (IJP)

Based on the assumption that individuals with developmental disabilities do not belong in jail or prison, the core of the Nebraska model is the development of an individual plan for each client aimed at an alternative to incarceration before or after any court action. Individuals singled out as appropriate candidates for the IJP have the following eligibility characteristics: the presence of a developmental disability; a history of primarily nonviolent behavior; and contact, or the risk of contact, with the criminal justice system.

Each of the following principles are taken into consideration when IJPs are developed:

1. Accountability. The developmentally disabled individual presenting illegal behavior needs to be held accountable for his/her behavior.

2. Competency. The developmentally disabled individual is presumed competent and capable of self management--until the contrary has been clearly demonstrated.

3. Due Process. The provisions of due process must be maintained in any decision which might adversely affect the life, liberty, or property of a developmentally disabled citizen. Therefore, when constraints must be placed upon the legal and constitutional privileges of these individuals, there must be clear evidence that they represent the least restrictive alternatives.

4. Least Restrictive Alternative. Any intervention in a developmentally disabled individual's life must represent the least departure from normal patterns of living that can be effective in meeting the individual's developmental needs.

5. Normalization. The normalization principle requires that the individual obtain an existence as close to the patterns and conditions of everyday life as is possible.

6. Control vs. Incarceration. Incarceration is the most restrictive alternative available to control a developmentally disabled individual. Less restrictive control measures are based on other services provided by staff, volunteers, and the effective use of all community programs and facilities.

Using these six principles as a basis, project staff develop IJPs which include some or all of the following considerations:

- Finding the residential setting appropriate for the behaviors the individual is exhibiting;

- Finding the job or type of vocational program that meets the individual's needs and effectively controlling the individual's behavior within the parameters of the job or vocational training program;

- Meeting those educational needs that would help alleviate the individual's inappropriate behavior;

- Providing social and recreational activities that would not only be of interest and benefit to the person, but would also address behavioral needs;

- Developing a money management system that would help the individual to manage his/her own finances;

- Considering the ways in which familial, medical, and/or psychiatric assistance may alleviate behavioral problems;

- Considering the necessity or advantage of advocacy for the developmentally disabled individual, or--in the event of property damage or monetary loss to a victim--of appropriate restitution on the part of the perpetrator.

Dissemination of the Model Through Training

In the Spring of 1985 the IJP model was ready for dissemination through a symposium held in Omaha, Nebraska, with attendance by interested persons from many states. Approximately 300 people (including criminal justice and court representatives) were trained to implement the IJP model. Training included the following:

- Instruction on the nature, effects, and causes of developmental disabilities;

- Techniques for identifying a person who has a developmental disability;

- Instruction on the most common problems developmentally disabled individuals encounter when they come in contact with the criminal justice system; and,

- Orientation on the rights and diagnostic and habilitative procedures and services to which persons with a developmental disability are entitled.

Technical assistance was provided to developmental disabilities and justice system personnel in the writing of 60 IJP's. The IJP was built on the framework established through the Individual Education Plan (IEP) and the Individual Habilitation Plan (IHP). It emphasized the multidisciplinary, multi-agency, multisystem nature of the problem and the

need for networking human service, criminal justice, advocacy, and volunteer systems.

Assessing the Program

Based on a limited follow-up study, project directors and consultants for Crime and Community, Inc. estimate that about 60 IJP's have been implemented in Nebraska. These plans were written prior to arrest, for pre-trial release as sentencing alternatives or parole plans. In each instance, an attempt was made to change illegal offending behavior without the use of incarceration. Probation officers were designated as case managers if an alternative sentencing plan was accepted. With the provision of technical assistance, community based agencies worked together to provide residential placement, vocational planning, and advocacy support where needed. When a judge decided that incarceration was necessary, the IJP served as a plan for the habilitation of the individual while serving time in jail or prison.

It has been demonstrated that the IJP process does effectively address the basic themes of the model project. Primarily, it pinpoints responsibility for the offender with developmental disabilities. It also brings the community into the process by developing awareness and personal commitment from individuals in the community. The Training Manual produced for the project can be adapted for use by other states and communities. The model can be replicated throughout the country. However, it is essential that the needs of developmentally disabled offenders be acknowledged throughout the criminal justice process for the program to work.

While the Nebraska program emphasizes the avoidance of incarceration when appropriate, the concept can be applied as a basis for parole with recidivism prevention as its dominant objective. The IJP Training Manual has drawn national attention as an innovative approach to dealing with this special population. It offers specific, realistic goals. In addition, it makes certain recommendations for generic training and programming. For example, the report concludes that there is a clear need to assign a specific person as a case manager to assume responsibility for linking community and agency resources to meet the client's needs.

This is crucial in the prison setting as well as in alternative community-based programs. But the framework for developing a modified IJP within the prison setting itself is worthy of consideration. The objectives and themes articulated in the plan may be incorporated in the correctional institution itself, especially in the realm of transitional services (both pre-and post-incarceration). Currently, these are the services least addressed in special education for handicapped offenders. The philosophical overview of the IJP process links human service and criminal justice entities in a manner that mirrors the standards derived from EHA. Indeed, it conveys in spirit Section 504 of the Vocational Rehabilitation Act and identifies the key issues of the Developmental Disabilities Act. Finally, it is the first program for developmentally disabled offenders which exacts a more than token commitment from the community and proves the importance of such commitment.

Section 6

STANDARDS FOR EDUCATIONAL AND RELATED SERVICES DELIVERY TO ADULTS WITH LEARNING DISABILITIES

C. Michael Nelson[1]

Section 6 begins to shift the Guide's focus, which has thus far been primarily one of definition, identification, and example. Here, the focus is on the nature and level of standard which may be used to develop, implement, and supervise special educational programming for the learning disabled.

INTRODUCTION

Webster's New Collegiate Dictionary defines a standard as "something established by authority, custom, or general consent as a model or example." Standards serve a number of purposes beyond their use as a model. They can be of assistance at many stages of correctional programming. At the planning and development stages they can be used as goals. They can also be used as tools and guidance in staff training, program implementation, and evaluation.

At this time, there is no single set of standards specifically developed to guide educational programming for the learning handicapped among adult offenders in correctional institutions. A number of sets of standards exist that have some relevance to this area. For example, the Council for Exceptional Children (CEC) has recently adopted standards for public school special education programs.[2] The American Correctional Association (ACA) has developed standards for adult correctional facilities that include standards for educational programming.[3] The Correctional Education Association (CEA) has recently issued Standards for Adult and Juvenile Correctional Education Programs.[4] The American Bar Association

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[2] Council for Exceptional Children, "Code of Ethics and Standards for Professional Practice," Exceptional Children 50 (1983): 8-12; "Standards for the Preparation of Special Education Personnel," Exceptional Children 50 (1983): 13-21.

[3] American Correctional Association, Standards for Adult Correctional Institutions (Second edition) (College Park, MD: American Correctional Association, 1981).

[4] Correctional Education Association, Standards for Adult and Juvenile Correctional Education Programs (College Park, MD: Correctional Education Association, 1988).

(ABA) has standards for the treatment and care of mentally ill and mentally retarded offenders.[5]

These bodies of standards, however, are insufficient as well as impractical for correctional administrators to use in the development, implementation, or evaluation of educational programs for learning disabled inmates. Many are of tangential relevance only, and none provides the specificity and comprehensiveness required in terms of correctional special education to serve the needs of practitioners. This section of the Guide is intended to fill a gap and a need, not by presenting a new body of specific standards, but by extrapolating from existing professional and legal standards and setting forth a model for practitioners to use as a guide.

Section 6 begins with a discussion of the nature of standards and their role in guiding professional conduct and program operation. Next, the relationship between law and standards is examined briefly. Then an overview is provided of relevant existing standards from professional organizations. Although these minimum standards constitute a basis for evaluating professional conduct and program operations, they do not adequately explicate quality special education for incarcerated adults. Therefore, a part of this Section is devoted to a description of "best practices" directed toward creating an educational milieu from which the learning handicapped offender may experience maximum benefit. Finally, issues related to programmatic standards are discussed.

While this information is relevant to correctional education program evaluators, special education teachers, and wardens or superintendents; it is specifically directed toward correctional education administrators who are primarily responsible for the development, implementation, and supervision of correctional special education programs. Thus, the major focus of this Section is on which sets of standards contain information that is useful to correctional education administrators, how to use these standards, potential obstacles and issues regarding their implementation, and, importantly, what lies beyond minimum standards in terms of quality programming for adult offenders with learning disabilities.

The standards discussed here are applicable to special education in adult correctional facilities and to any type of learning handicapping condition. Their focus is on education and related services for inmates who are programmed into special education but who otherwise are most likely to be mainstreamed with the general population. Section 7, which follows, provides a set of model standards for the overall education, treatment, and care of mentally retarded inmates. These are specifically designed for inmates whose handicapping condition requires not only special education programming but a special and more protected environment, either on a day-care or live-in basis.

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[5] American Bar Association, Criminal Justice Mental Health Standards (Boston, MA: Little Brown and Company, 1986).

THE NATURE AND PURPOSE OF STANDARDS

Heller observed that professional standards provide the context for evaluating the professional behavior of special educators or the content of a personnel preparation program. However, he cautions that standards do not constitute an inflexible model against which to measure performance; rather, they provide a judgmental framework against which performance can be evaluated. Some degree of subjectivity in the evaluation process therefore is inevitable and even desirable.[6]

The program developer or administrator who seeks to use standards as a basis for evaluation must be sure to select standards that address the aspect of the program he or she wishes to evaluate. For example, a set of standards for professional conduct developed by the CEC addresses the behavior of individuals vis a vis professional practice, while the focus of another set is the quality of personnel preparation programs. The administrative regulations accompanying the Education of the Handicapped Act (EHA) and corresponding state laws address standards for the operation of special education programs.[7] It is not the purpose here to explicate these many different sets of standards; rather, the purpose of the current discussion is to assist correctional education administrators in designing special education programs that will meet minimum professional and legal standards, and further, to suggest program features that go beyond these minimum standards to provide quality educational experiences for learning handicapped offenders.[8]

In developing a correctional special education program, administrators should begin with an attempt to determine the needs of handicapped adult offenders. This is no simple task in itself, for a variety of reasons. One reason is that correctional programs, by and large, have yet to devise efficient and effective methods for identifying handicapped offenders. Another reason is the mismatch between correctional education programs and the U.S. public school system for which EHA was created, which has resulted in a number of compliance issues. A third reason is the lack of programs and properly trained staff to implement them. The other parts of this Guide, in addition to other sources of information referenced, provide suggestions for addressing these complex tasks.

Santamour, in the section that follows, has framed a set of objectives that encompass the needs of mentally retarded adult offenders as well as the needs of the criminal justice system. As stated in his introduction, the ultimate goal of these program standards is to prepare

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[6] H.W. Heller, "Special Education Professional Standards: Need, Value, and Use," Exceptional Children 50 (1983): 2-7.

[7] See Sections 3 and 4.

[8] A number of reference works are available to assist administrators with the design, implementation, and evaluation of special education programs (e.g., Council for Exceptional Children, 1977; Maher and Bennett, 1984; Mayer, 1982; Podemski, Price, Smith, and Marsh, 1984).

handicapped offenders for re-entry into the community as "independent, law abiding, and better adjusted individuals." No other set of professional or legal standards specifically addresses this goal. Standards only indicate what should be in place regarding areas such as educational assessment, curriculum, instructional methods, and disciplinary techniques. This leaves much room for interpretation of the standards and for variability in program focus and direction. Thus, a program may be in compliance with minimum standards and yet not facilitate the offender's successful re-entry into the mainstream of society. For example, each handicapped offender may have an individualized education plan (IEP), which satisfies a legal regulatory standard, but the contents of the IEP may lead to the development of functionally irrelevant skills. Therefore, it is incumbent upon administrators to design programs that reflect broader philosophical goals instead of simply meeting minimum standards.

THE RELATIONSHIP BETWEEN LAWS AND STANDARDS

As stated previously, federal and state laws, with their accompanying administrative regulations, constitute operational standards for special education programs. In effect, the laws establish mandates for service providers, whereas the administrative regulations describe appropriate policies and procedures for implementing these laws.[9] The administrative regulations that accompany these laws are intended to clarify their intent; however, they also provide more specific information regarding their implementation. For example, EHA specifies that an IEP must be developed for each student with special needs, and Regulation 300-346 indicates that the content of the IEP must include: (1) a statement of the student's present levels of educational performance; (2) a statement of annual goals, including short-term instructional objectives; (3) a statement of the specific special education and related services to be provided to the student, and the extent to which the student will be able to participate in regular education programs; (4) the projected dates for the initiation of services and the anticipated duration of services; and (5) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.[10] If a program were being evaluated, the standard would be first, that each handicapped student has an IEP, and second, that each IEP contains the information stated in the regulation. Once again, however, the mere existence of IEP's containing the five elements specified in the Regulation does not guarantee that students' IEP's are appropriate. Thus, while the law and its regulations establish a standard in terms of what must be present in students' IEP's, the issue of program quality exceeds the minimum standard. In other words, program evaluation should go beyond mere compliance (the presence of the required components) in addressing quality (the appropriateness of the components and their relationship to professionally acceptable program goals).

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[9] These laws are discussed in Section 3.

[10] Education of the Handicapped Regulations, Supplement 138, February 15, 1985.

Federal laws pertaining to the education of the handicapped have been described earlier in this Guide. Therefore, compliance issues will not be discussed here. However, Nelson and Rutherford have developed a compliance questionnaire that may be useful to administrators in conducting self-studies of correctional special education programs. (See Appendix E for a copy of the questionnaire.) Administrators who are interested in using this instrument as a guide for program evaluation and improvement should reference it to EHA and its administrative regulations, or they may work with representatives of their state education agency (SEA). The latter strategy offers the advantage of addressing state law while simultaneously developing a collaborative relationship with SEA monitoring staff. C.L. Mayer also has developed a self-study checklist for public school administrators to use in evaluating their special education programs.[11] With some adaptation, it would be useful in ensuring that the programs meet minimum legal and professional standards.

STANDARDS APPLICABLE TO CORRECTIONAL SPECIAL EDUCATION PROGRAMS

In addition to federal and state laws and their administrative regulations, three sets of national standards address correctional education programs for handicapped offenders--those developed by the Council for Exceptional Children, the American Correctional Association, and the Correctional Education Association.[12]

Council for Exceptional Children (CEC) Standards

The Delegate Assembly of CEC adopted two sets of standards; one set pertains to professional practice and the other pertains to personnel preparation. Underlying both is a Code of Ethics that espouses a set of beliefs regarding what is widely thought to be appropriate or correct professional practice. The following are eight principles adopted by the CEC Delegate Assembly in April 1983 as a Code of Ethics for educators of exceptional persons:

1. Special education professionals are committed to developing the highest education and quality-of-life potential of exceptional individuals.

2. Special education professionals promote and maintain a high level of competence and integrity in practicing their profession.

3. Special education professionals engage in professional activities which benefit exceptional individuals, their families, other colleagues, students, or research subjects.

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[11] C.L. Mayer, Educational Administration and Special Education: A Handbook for School Administrators (Boston: Allyn and Bacon, 1982).

[12] Copies can be obtained by writing to these associations. Addresses and further information are provided in Section 9.

4. Special education professionals exercise objective professional judgment in the practice of their profession.

5. Special education professionals strive to advance their knowledge and skills regarding the education of exceptional individuals.

6. Special education professionals work within the standards and policies of their profession.

7. Special education professionals seek to uphold and improve where necessary the laws, regulations, and policies governing the delivery of special education and related services and the practice of their profession.

8. Special education professionals do not condone or participate in unethical or illegal acts, nor violate professional standards adopted by the Delegate Assembly of CEC.

This code of ethics, as well as the Standards for Professional Practice, applies directly to the behavior of individuals, and is limited in its usefulness as a guide for programs. However, program administrators might consider these principles in hiring professional staff and in evaluating whether the employment setting will allow special educators to function in accordance with these principles.

CEC Standards for Professional Practice

This set of standards focuses on the responsibilities of the individual practitioner to his or her profession. These are grouped into three major areas: professionals in relation to exceptional persons and their families; professional employment; and professionals in relation to the profession and to other professionals. Although these standards are stated in terms of the obligations of the practitioner (e.g., Standard 2.3.3 "Professionals practice only in areas of exceptionality, at age levels, and in program models for which they are prepared by reason of training and/or experience" [p. 11]), the implications for administrators in terms of ensuring that the standards are met are obvious. Moreover, the majority of these standards can be interpreted only in conjunction with state guidelines and regulations (e.g., the interpretation of Standard 2.3.3. would be based upon the individual's professional training and certification compared with the state guidelines and the position for which he/she was applying).

The relative shortage of appropriately certified special education personnel in correctional education programs has resulted in the employment of noncertified personnel or of persons whose certification is in an area other than that in which they are employed. The use of improperly certified personnel, or the violation of other professional standards, may cause the program to be out of compliance with the state Education of the Handicapped Act (EHA) law. Thus, it is important for program administrators to know the law and its regulations well enough to exercise

good judgment in implementing a correctional special education program. Copies of state EHA laws and administrative regulations are available from each state Department of Education.

The questions contained in the appended Nelson/Rutherford Compliance Questionnaire also address issues affecting the compliance of correctional special education programs with the federal mandate, as well as the quality of the educational services provided. The monitoring guide prepared by Gerry (1985) and distributed by the National Association of State Directors of Special Education is also a useful resource.

American Correctional Association (ACA) Standards

The ACA (1981) has published standards for adult programs. The standards applicable to educational programming address the availability of education programs, the qualifications of educational staff, teacher/pupil ratios, curriculum, individualized educational planning, evaluation policies, and the provision of special education services. Specific standards for special education programs are not provided; however, the intent of these standards clearly is to individualize instruction for a wide range of adult learners. For example, Standard 2-24422 requires that a comprehensive educational program, ranging from literacy training through high school, be available to all eligible inmates. Standard 2-4438 indicates that instruction in functional social skills (an area in which many handicapped offenders are deficient) should be provided.

In 1986 the ACA took an even stronger stand on the provision of services to handicapped offenders by issuing a "Public Correctional Policy on Offenders With Special Needs."[13] This target group includes a wide range: the physically and/or mentally ill or handicapped, the learning disabled, the emotionally disordered, the elderly, those with language barriers, and those in need of special security or supervision needs (i.e., inmates in protective custody, on death row, or in other forms of segregation). The policy provides for specialized services and programs to meet their individual needs, specifying the following steps:

- Identify categories of offenders who will require special care or programs;
- Provide specialized services or programs, either in the institution or by referral to other appropriate public or private agencies;
- Maintain specially trained staff for the delivery of care, programs, and services;
- Maintain documentation of the services and programs provided;

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[13] For further detail, see Public Policy for Corrections: A Handbook for Decision-Makers, available from the ACA.

- Institute carefully controlled evaluation procedures to determine each program's effectiveness; and,
- Provide leadership and advocacy for legislative and public support to obtain resources needed to meet these special needs.

Federal Standards

In 1980 the U.S. Department of Justice published federal standards for prisons and jails that, although lacking the specificity of other sets of standards, clearly intend that a comprehensive range of educational programs and services shall be available to inmates. Standard 17.16 specifies that "To the maximum extent feasible, educational and vocational program opportunities are provided for handicapped inmates, comparable to those provided to nonhandicapped inmates." [14]

Correctional Education Association (CEA) Standards

In 1988 the Correctional Education Association (CEA) issued a set of standards for adult and juvenile correctional education programs covering institutional delivery of services as well as systemwide administration of such programs. This is the most comprehensive set of correctional education standards to date, developed for and by correctional educators. It should prove beneficial to correctional administrators in planning as well as evaluating educational services delivery. These standards include one specifying that special education, in accordance with state and federal law, is available to all handicapped offenders regardless of age.[15]

State Standards

Several states also have developed, or are developing, standards for correctional education programs. One such state is Michigan, whose draft standards include making special education available to inmates in accordance with state regulations and mandatory education for offenders performing below the 8th grade level in reading and/or math. Administrators should contact their state departments of education or corrections for copies of relevant standards and education laws, and they should use these in conjunction with self-study materials to determine whether their programs meet these criteria.

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[14] United States Department of Justice, Federal Standards for Prisons and Jails (Washington, DC: Department of Justice, Office of Public Affairs, 1980).

[15] Correctional Education Association, Standards for Adult and Juvenile Correctional Education Programs (College Park, MD: Correctional Education Association, 1988).

CORRECTIONAL SPECIAL EDUCATION BEST PRACTICES

Rutherford, Nelson, and Wolford generated the following set of six "best practices" in correctional special education from extensive reviews of the correctional education literature, program site visits, and interactions with correctional educators:[16]

1. Functional assessment of offenders' skills and learning needs;
2. A curriculum focused on the development of skills that are functional in adult living environments;
3. The inclusion of vocational special education in the curriculum;
4. Programs and procedures to achieve the transition of records and individuals between communities and correctional programs;
5. A comprehensive system linking institutional and community services for offenders; and,
6. Pre- and in-service special education training for correctional educators.

As mentioned previously, these practices exceed minimum standards in that they address programming elements that need to be but are not commonly found in programs for learning disabled offenders. However, the authors believe that they can make the difference between special education programs that accomplish little and those that meet Santamour's goal of preparing handicapped offenders for return to their communities as independent, law-abiding individuals. Each of these practices is described below.[17]

Functional Assessment

Functional Assessment involves the evaluation of the offender's current skills against those required by the curriculum and/or the offender's least restrictive adult living environment. This practice goes well beyond traditional procedures in most correctional programs, where assessment typically involves group paper-and-pencil achievement tests (e.g., the Test of Adult Basic Education) supplemented with quick, and often unreliable, individually administered achievement tests (e.g., the Wide Range Achievement Test) and a vocational aptitude test. Such tests have limited utility for identifying handicapped persons, placing them in

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[16] R. Rutherford, C.M. Nelson, and B.I. Wolford, "Special Education in the Most Restrictive Environment: Correctional Special Education." Journal of Special Education 19(1985):59-71.

[17] A more complete discussion can be found in C.M. Nelson, R.B. Rutherford, and B.I. Wolford, Special Education and the Criminal Justice System (Columbus, OH: Merrill, 1987).

an appropriate educational program, or designing instruction to enhance their ability to function as independent community members.

On the other hand, more useful assessment procedures begin with a comprehensive screening battery to identify persons who may be handicapped, followed by a diagnostic evaluation of those who fail the screening. Subsequent assessment steps are specific to available curricula in order to determine where the individual should be placed in the curriculum. Assessment procedures must be tailored to fit each state's or facility's intake, classification, and evaluation system.[18]

Functional Curriculum

Whereas traditional adult special education curricula tend to consist of simplified versions of Adult Basic Education courses, a functional curriculum is based on the skills adults need to achieve maximum independence in community environments. Consequently, the emphasis is on the development of social, daily-living, self-help, mobility, and other important skills, rather than on accomplishing another half-year of academic gains. Basic academic instruction is embedded in learning tasks that are both relevant and useful to adults, such as learning to find information in newspapers and telephone books or planning a budget. This is different from courses that prepare students solely for a GED preparation course, which is a goal many special education students never achieve.

Vocational Special Education

In the past, few handicapped offenders have gained access to vocational education programs in corrections. The barriers include such requirements as a high school diploma or minimum academic grade level achievement test scores, as well as institutional industry production demands that eliminate those who work less efficiently. The lack of useful job skills undoubtedly contributes to unemployment upon release and may well be a contributing factor to recidivism. Meaningful vocational education programs that are both accessible to and accomplishable by handicapped offenders are part of a functional curriculum. The virtual absence of vocational special education in correctional programs must be remediated; therefore, Rutherford et al. chose to highlight this area as a separate category.[19]

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[18] For further discussion of assessment, see Section 4.

[19] For further detail, see B. Fredricks and V. Evans, "Functional Curriculum," in Nelson, et al., 189-214.

Transition

The absence of interagency cooperation between community and correctional agencies is a common problem, resulting in the failure to transfer important educational records, lack of coordinated aftercare services, inappropriate community placement of handicapped ex-offenders, and the failure of skills learned in the correctional program to generalize to the community settings. But even within the correctional setting transition problems abound. For example, classification decisions often are made without awareness of the offender's educational background or needs, and institutional assignments are made in ignorance of an inmate's learning handicaps. E.B. Edgar and his colleagues have a useful discussion of this complex area.[20] They also have developed an interagency transition model for achieving the transition of juvenile offenders back to community schools.[21] The analyses and strategies used in the model are adaptable to adult populations and to other transitions as well.

Comprehensive Systems

The lack of effective transition services is one outcome of the failure to establish a system of coordinated services both within the correctional agency and between corrections and community programs. Within institutions, the absence of comprehensive and coordinated administrative structures leads to conflicting priorities among inmate programs. For example, security considerations and work assignments often block inmates' access to educational programs. If the goal of rehabilitation is to be achieved, coordination among and within agencies servicing handicapped adult offenders must become a reality. This will require long-term, major coordination of the many educational, vocational, and human service agencies with which the handicapped are likely to come into contact. Fortunately, state correctional and educational agencies have begun to collaborate on the design and evaluation of correctional special education programs. Such interagency cooperation is necessary if the complex area of transition is to be addressed meaningfully.

Correctional Special Education Training

Data from a national survey of state administrators of correctional and special education agencies revealed a dearth of qualified special education personnel relative to estimates of the number of handicapped

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[20] E.B. Edgar, S.L. Webb, and V. Evans, "Issues in Transition: Transfer of Youth from Correctional Facilities to Public Schools,: in Nelson, et al., 251-272.

[21] S.L. Webb, M. Maddox, and E. Edgar, Juvenile Corrections Interagency Transition Model (Seattle, WA: Networking and Evaluation Team, University of Washington, 1985).

offenders in correctional programs.[22] While pre-service correctional special education teacher training programs are being developed at several institutions of higher education, there remains a gap between the need for trained staff and their availability. To help fill this gap the Correctional/Special Education Training (C/SET) Project developed and disseminated to state departments of correction and special education a set of eight training modules. These modules provide comprehensive training information and materials. However, systematic training should be conducted by qualified persons only; therefore, it is recommended that such training be accomplished through negotiation with the appropriate state department or institution of higher education. The set of modules includes the following:

- Correctional Education/the Criminal Justice System;
- Characteristics of Exceptional Populations;
- Overview of Special Education;
- Overview of EHA and IEP's;
- Assessment of Exceptional Individuals;
- Curriculum for Exceptional Individuals;
- Instructional Methods and Strategies; and,
- Vocational Special Education.

These modules may be obtained through state departments of correction or education, or from the National Center for Research on Vocational Education, Ohio State University.[23]

ISSUES

A number of issues arise with regard to meeting programmatic or professional standards in correctional education programs. The following sections highlight some of the issues that administrators must face in attempting to meet standards.

Compliance With EHA

While discussion of compliance issues is not the purpose of this portion of the Guide, several such issues affect the degree to which

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[22] R. Rutherford, C.M. Nelson, and B.I. Wolford, "Special Education in the Most Restrictive Environment: Correctional Special Education," Journal of Special Education 19 (1985): 59-71.

[23] Each module is described in greater detail in Abstracts of Key Relevant Literature section of the Guide.

correctional special education programs are able to meet standards implied in the law and its administrative regulations. An overriding issue is that the law was written for public school and not for correctional programs. It is obvious that public schools are quite different places than correctional institutions. Therefore, interpretation of the meaning of "least restrictive environment" or "continuum of educational services" varies considerably in these two settings. Difficult compliance issues for correctional programs, then, include restrictions on the availability of special education and related services, matters of parental involvement, and due process (although the latter affects juvenile more than adult programs.) Another problem has been the timeliness of referral, assessment, identification, preparation, and implementation of students' IEP's. This process often is not completed before the student has been placed in a program, meaning that special education needs are not considered in making institutional assignments.

Compliance issues have been discussed at length in Sections 3 and 4 of this Guide. These should be carefully considered by correctional education administrators, as correctional special education programs are expected to comply with the spirit, if not the letter, of the law.[24]

Accessibility of Special Education and Related Services

Enrollment in correctional education programs has traditionally been on a voluntary basis in adult correctional institutions where the population is beyond school age. Yet, EHA and state law usually require that special education be made available for those eligible through age 21. Many agencies have found, however, that inmates in need of special education are usually reluctant to enroll due to past school failure and the fear of being labeled.

States that have mandatory education for inmates functioning below a certain level--either by departmental policy or state law--need to make sure that there is special provision for inmates in need of special, not just remedial, education. Mandatory education provisions are spreading and are likely to assist by increasing the likelihood that learning disabled and mentally retarded offenders will be identified upon entry into the system. However, some states are making the mistake of excluding these special populations from the rule on the grounds of "fairness," i.e., believing that they could not meet the minimum standards demanded. This occasionally leads to exempting them from services as well, which is in violation of Section 504. In some states, they are included in the rule but do not have access to special education and are left to flounder in regular ABE or GED programs. The standard should be that learning disabled inmates functioning beneath the mandatory level should be provided special education as needed to achieve their own maximum limit, while ensuring that they are not penalized when it comes to privileges, pay, or parole hearings. In states where mandatory education is tied to eligibility for

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[24] P.E. Leone, T. Price, and R.K. Vitolo, "Appropriate Education for All Incarcerated Youth: Meeting the Spirit of P.L. 94-142 in Youth Detention Facilities," Remedial and Special Education 7 (1986): 9-14.

parole, the learning disabled may need to be exempted from having achieved a certain level, not from having to attend programs that will help them function better in society upon release.

Similarly, restrictions imposed by reading level requirements on inmates' access to educational or vocational programs are in conflict with such standards in that handicapped students shall have available to them the variety of educational programs and services that are provided to nonhandicapped pupils.[25] Disincentives to participation in educational programs imposed by differential wages or "good time" credits for maintenance or industry jobs also must be considered by administrators.

These are just a sample of the many issues related to meeting standards involving correctional special education programs. A major reason for the existence of so many issues is the multitude of standards pertaining to such programs. The efforts of individuals (e.g., Santamour) and states (e.g., Michigan) to develop consolidated sets of standards for correctional special education programs are laudable. The adoption of these may reduce the burden placed on correctional education administrators who attempt, in good conscience, to meet the confusing array of standards existing today. In the meantime, it is hoped that the information presented here will help administrators to not only meet existing standards, but also to move toward "best practices."

CONCLUSION

This Section outlined relevant standards which may be used as a framework for educational programming for the learning handicapped in an adult correctional environment. These standards are primarily for correctional education administrators to use as a guide in staff training, program implementation, and evaluation.

At a minimum, standards establish a systematic method for maintaining compliance with the law and regulations. Programs which exceed minimum standards are known to include "best practices," in that they achieve broader goals from which the learning handicapped offender may experience maximum benefit.

Finally, this Section examined issues that affect a correctional education program's ability to meet the established standards. The major issues included EHA, which was written for public school and not for correctional programs, and the limited accessibility of special education and related services that is largely due to varying legal interpretations surrounding mandatory vs. voluntary enrollment and restrictions imposed by reading level requirements.

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[25] Reg. 300.305, Supp. 138, February 15, 1985.

Section 7

MODEL PROGRAM STANDARDS FOR INMATES WITH MENTAL RETARDATION

Miles Santamour[1]

Model standards for the overall education, treatment, and care of mentally retarded inmates are presented according to six main objectives. The goals of these standards are to foster a habilitative system of services for offenders with retardation, to reduce security and management problems related to this group, and ultimately to enable these offenders to re-enter the community as law-abiding and better adjusted individuals.

INTRODUCTION

These model standards are largely based on a review of standards prepared to guide the treatment and care of persons with mental retardation in the community, in mental health/retardation institutions, and the criminal justice system.[2] They are in agreement with published bodies of professional and legal standards; yet, they go a step beyond. They focus on the mentally retarded in correctional facilities and translate extant standards into pragmatic guidelines for correctional staff in planning, implementation, and evaluation of programs for this special population.

Although it is our belief, based on the research and field work conducted in preparation for this Guide, that many mentally retarded inmates would be better cared for through alternative sentences and in community settings, the fact remains that a large number of offenders with retardation are incarcerated in prisons throughout the country. Until a better way is found to service these individuals, they will continue to be the responsibility of correctional administrators and line staff. Since mentally retarded offenders are frequently victimized in the general population and are always in need of special services, it is imperative that departments of corrections have special programs and living arrangements available for those in need. Several models of such programming are discussed in detail in Section 5 of this Guide. These

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[1] Miles Santamour is a specialist in the field of mental retardation and the criminal justice system. He has been a staff member of the President's Committee on Mental Retardation, author, trainer, expert witness, and court appointed monitor of mental retardation programs in corrections in many states.

[2] United States Department of Health and Human Services, Standards for Intermediate Care Facilities for the Mentally Retarded (Washington, DC: Department of Health and Human Services,1988). See also Accreditation Council for Services to Mentally Retarded and Developmentally Disabled Persons, Standards for Services to Developmentally Disabled and Mentally Retarded Persons (Washington, D.C., 1984.)

standards are specifically designed with such programs in mind and present what was referred to in the previous Section as "best practices" rather than minimal standards.

The major goal of these standards is to foster a system of service specifically designed to habilitate offenders with retardation and to reduce security and management problems often associated with this group. The standards include guidelines for diagnosis and evaluation; the development of personal, physical, academic, and vocational skills; job-preparedness and work experience; and independent life skills. The ultimate goal is the re-entry of these offenders into the community as independent, law-abiding, and better adjusted individuals. The following are specific objectives, which further correspond to clusters of standards in the text that follows:

- Creating a developmentally oriented, emotionally supportive, and physically safe environment for inmates with mental retardation;
- Setting up a diagnostic and classification scheme that places offenders in the setting and programs most appropriate for their personal and security needs;
- Developing an individualized habilitation program for each offender based on individual needs and criminal behavior;
- Helping the inmate acquire skills, resources, and opportunities necessary to function adequately while incarcerated and in society after release;
- Providing a system of supportive services that will make re-entry into the open community easier and post-release success more likely; and
- Maintaining a set of professional standards with regard to managing offenders, selecting and training staff, record-keeping, and evaluating the programs.

CREATING A DEVELOPMENTALLY ORIENTED, EMOTIONALLY SUPPORTIVE, AND PHYSICALLY SAFE ENVIRONMENT FOR INMATES WITH MENTAL RETARDATION

01 The program has a written statement of mission.

The mission of the program is to foster those behaviors that maximize the human potential of persons with retardation, correct their criminal behavior, lead to appropriate and socially acceptable behavior, and enhance their ability to cope with their environment within the prison and in the community.

Fulfillment of this mission requires the following components:

- An interdisciplinary process for individual evaluation, program planning, and program implementation;
- Assessment of the individual's criminal behavior, handicap, status and needs, as a basis for designing and maintaining a program that will enhance habilitation;
- Provision of a continuum of services and interventions in accordance with established professional practices and the needs of the individual inmate;
- Provision of services in settings that are appropriate to the chronological ages and habilitative levels of the individuals served;
- Effective coordination of services, reflecting planning and active participation of the individuals to be served, and, when appropriate, participation of individuals who are the key to the offender's re-entry into society; and
- Maintenance of functional records that are indispensable for effective programming.

02 The program has a written philosophy and goals statement that is distributed to staff and is communicated to the inmates served and made available to interested others.

The program philosophy should be based on the principle of the least restrictive alternatives that are consistent with correctional security and the developmental needs of each inmate. The philosophy and goals statement:

- Clearly defines the program's role and function within its system;
- Relates the program's objectives to those of the correctional system;
- Relates the program's objectives to the identified needs of the population served;
- Defines the population that the program intends to serve, the services that it intends to provide this population, and the modalities that it intends to use in providing these services; and
- Is reviewed at least annually and revised as needed.

03 Each professional service associated with the program has a written statement of objectives.

The special program for the MR population is by necessity multi-disciplinary and involves a number of professional services and activities, i.e., assessment, education, counseling, medical care, vocational rehabilitation, recreation, and work experience. Each professional activity has a distinct goal, yet must function as part of a team effort. To coordinate these efforts it is essential that the objectives of each component be defined. They should also:

- Be consistent with the needs of the individuals served;
- Be consistent with the program's philosophy and goals;
- Be consistent with currently accepted practices and principles of the profession;
- Be consistent with the interdisciplinary approach;
- Be prepared by appropriate staff in consultation with other persons, as needed;
- Be reviewed at least annually and revised as needed; and
- Be communicated to all concerned.

04 The program has a description of services available to all concerned.

The description includes the following information:

- Admission criteria;
- The groups served;
- The plan for grouping individuals into program and living units;
- The diagnosis and evaluation services offered;
- The means for implementing, through clearly designated responsibility, individual programs in accordance with need;
- Available programs, i.e., academic, vocational, counseling, recreation, life and social skills, sex education, and industry; and
- The procedures for termination of services.

05 The name of the program, the terminology used to refer to the individuals served, and the way these individuals are interpreted to the public are appropriate to habilitation goals and do not unnecessarily stigmatize the individuals served.

Although "labeling" is necessary for clinical and diagnostic purposes and to draw on resources designated for persons with special handicaps, it can be counter-productive and harmful to the individuals involved. Great

care should be used in naming special MR units so that no stigma is attached to inmates transferred from one of these special units into the general correctional population or into the community after release.

06 Each inmate is provided with the physical and mental health care provided all inmates as well as special health care required to meet needs that arise from problems associated with the handicapping condition.

In order to meet this standard, correctional agencies must ensure the following:

- Each individual has a physician who maintains familiarity with the individual's state of health and with conditions that bear on it;
- Services are provided or obtained for the detection, diagnosis, and treatment of sensorimotor deficits;
- The program provides or obtains corrective, orthotic, and prosthetic devices, in accordance with specialists' recommendations;
- The program has written policy regarding the administration of all medication used by individuals, including medication that is not specifically prescribed by the attending practitioner;
- Drugs are administered only by persons authorized to do so;
- Each individual who requires medication receives medical supervision, which encompasses regular evaluation of the individual's response to the medication, including appropriate monitoring and laboratory assessment;
- The program implements written policies and procedures, appropriate to the needs of the individuals being served, concerning detection of signs of injury, disease, and abuse;
- The program has a written policy that specifies the procedures to be followed in medical emergencies and in rendering emergency medical care;
- The program's policies and procedures for the care of individuals with infectious and contagious diseases conform to state and local health department regulations;
- Copies of the program's policies and procedures concerning the care of individuals with infectious and contagious diseases are provided to staff, and made available to the individuals served and their families upon request; and

- In each program area or living unit, the following are accessible to and usable by wheelchair inmates: drinking unit, toilet, lavatory, and showers.

SETTING UP A DIAGNOSTIC AND CLASSIFICATION SCHEME THAT PLACES OFFENDERS IN THE SETTING AND PROGRAMS MOST APPROPRIATE FOR THEIR PERSONAL AND SECURITY NEEDS

07 Each inmate is assigned an interdisciplinary team that identifies the inmate's needs and devises ways of meeting those needs.

The interdisciplinary team is an approach to the diagnosis, evaluation, development, and implementation of an individual habilitation plan (IHP). Team members utilize their particular professional skills, insights, competencies, and experience to identify the needs of the inmate and devise strategies to meet these needs. Participants share all information and recommendations and develop, as a team, a single, integrated, individual plan to meet the individual's identified needs. The interdisciplinary team process should include the following:

- Each individual's interdisciplinary team is constituted of persons drawn from, or representing, the professions, disciplines, or service areas that are relevant to identifying the individual's needs and designing programs to meet them;
- Each interdisciplinary team includes those persons who work most directly with the individual in each of the professions, disciplines, or service areas;
- The team includes staff from all shifts who work most directly with the inmate, including security staff;
- The interdisciplinary team process provides for and invites the active participation of the inmate and, as appropriate, other individuals who are key to the individual's re-integration into society; and
- The program has written policies and procedures that specify the organization and operation of the interdisciplinary team process.

08 Each inmate is provided a comprehensive assessment by an interdisciplinary team.

Assessments are provided by an interdisciplinary team constituted of members drawn from, or representing, such professions, disciplines, or service areas as are relevant to each case. Comprehensive assessments identify the individual's needs for services. The interdisciplinary team--or a designated team member--synthesizes, interprets, and provides guidance

in utilizing the assessment components provided by different practitioners or programs in the IHP development process.

The following represents a comprehensive assessment:

- Physical health examination, including specialized medical tests as needed;
- Medication history;
- Dental evaluation;
- Evaluation of nutritional status;
- Visual screening, and comprehensive visual assessment when indicated;
- Auditory screening, and comprehensive audiological assessment when indicated;
- Speech and language screening, and comprehensive speech and language evaluation when indicated;
- Educational, vocational, psychological, and/or developmental assessments, as appropriate for the individual, as determined by the interdisciplinary team; and
- Security and custody assessment.

09 The assessment of the individual includes attention to physical development and health, sensorimotor development, communicative development, criminal behavior and social development, affective development, cognitive development, adaptive behaviors, basic academic and vocational skills, learning style, interests, independent living skills, and security/custody needs.

Assessment is an empirical process that determines if, and to what degree, an individual has a handicap. In the case of offenders, it also seeks to determine what interventions and services are needed to correct the criminal behavior and enable the individual to move toward independent and lawful functioning. Assessment identifies the individual's present developmental level; the individual's strengths, abilities, and needs; the conditions that impede the individual's functioning; and, whenever possible, the causes of the criminal behavior and disability.

For assessment purposes, development may be conceptualized as having physical, cognitive, communicative, social, and affective facets. Cognitive development refers to the development of those processes and abilities involved in recognizing, perceiving, reasoning, and remembering. Communicative development refers to the development of verbal and non-verbal, receptive and expressive communication skills. Social development refers to the formation and growth of those self-help and interpersonal

skills that enable an individual to establish and maintain appropriate roles and fulfilling relationships within the environment. Affective, i.e., emotional, development includes the development of behaviors that relate to, arise from, or influence a person's interests, attitudes, values, and emotional expressions.

An individual's developmental status may also be conceptualized in terms of the adaptive behavior that the individual displays. Adaptive behavior refers to the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his or her age and cultural group.

10 **The assessment necessary to develop the initial program plan is completed within 30 calendar days of commitment. The assessment process includes review and updating, as necessary, of evaluations made prior to commitment.**

11 **Each individual receives a reassessment at least annually, or when behavioral responses indicate, in the areas and to the extent determined by the interdisciplinary team.**

Reassessments may include educational, vocational, psychological, or developmental assessment, as determined by the interdisciplinary team. Health assessments, including physical examination and dental evaluation, are provided at least annually. Reassessment of security/custody needs is also done on at least an annual basis.

12 **The assessment process is adapted to the cultural background, language, and ethnic origin of the individual and the family.**

Inmates play an integral role in the development and implementation of their IHP's. It is therefore essential that inmates and those significantly involved in their transition into and successful adaptation to the community are clearly informed about the assessment results and habilitation plan. The interdisciplinary team must therefore ensure and document the occurrence of the following activities:

- The individual and, when appropriate, the individual's family are involved in the assessment process, or that efforts to involve them have been made;
- Assessment findings are interpreted to the individual;
- Assessment findings are interpreted to the persons responsible for carrying out the individual's program in terms of actions to be taken; and
- Assessment findings are recorded in terms that facilitate clear communication across disciplines and with individuals served.

DEVELOPING AN INDIVIDUALIZED HABILITATION PROGRAM FOR EACH OFFENDER BASED ON THE INDIVIDUAL NEEDS AND CRIMINAL BEHAVIOR

13 An individual habilitation plan (IHP) is developed for each inmate by the interdisciplinary team, within one month of commitment. Based on the comprehensive assessment, the IHP specifies the individual's goals and objectives, identifies a continuum of programs and services, and outlines progressive steps.

The IHP is a written plan of intervention and action that is developed on the basis of assessment results and modified at frequent intervals, with the participation of all concerned. It specifies habilitative goals, including both treatment and education components. For students who are eligible for educational services under the Education of the Handicapped Act (EHA), an IEP is developed in accordance with the regulations of that law. The IEP then becomes one of the components of the IHP. Included in the IHP is a written agreement that specifies the role and responsibilities of each participant--including the inmate--in implementing the plan.

The objectives in the IHP reflect the inmate's corrective, educational, and habilitation needs, as identified in assessment data. The IHP further describes the barriers to the achievement of the objectives. The objectives of the IHP are

- Stated separately (if possible, each objective is stated in terms of a single, measurable behavioral outcome);
- Assigned projected completion dates;
- Sequenced within a progression appropriate to the individual;
- Assigned priorities;
- Accompanied by the programs and strategies to be used;
- Accompanied by a designation of special services;
- Accompanied by designation of the programs or persons responsible for delivering the needed services; and
- Accompanied by a desired schedule of times and locations of activities involved.

The activity schedule for each inmate is then developed in accordance with the IHP. The activity schedule for each offender is available to security staff and implemented daily.

14 The inmate's IHP is reviewed monthly to gauge progress, to determine the appropriateness of the plan, and to make needed modifications.

A review of the IHP is made at least monthly by one or more members of the individual's interdisciplinary team, in order to ensure the continuing implementation and appropriateness of the plan. Problems and/or changes that call for review of the IHP by the interdisciplinary team are documented. The team is convened to review the plan when problems or changes that call for review by the team are indicated.

The monthly review should determine the following about the IHP:

- Implemented according to the established schedule;
- Appropriate and reflective of the inmate's response;
- Modified as needed when the inmate has accomplished certain objectives; and
- Modified as needed if the inmate has made no progress in accordance with objectives and timelines or has regressed.

The IHP is reviewed by the individual's interdisciplinary team at intervals determined by the team, but at least annually. The review:

- Assesses the individual's response to activities designed to achieve the objectives stated in the IHP;
- Modifies the activities and objectives as necessary; and
- Determines the services that are needed.

The results of the review by the interdisciplinary team are documented, interpreted to the inmate, and made available to relevant personnel.

15 Each inmate served by the program is assigned a case manager who is responsible for coordinating the program's activities and implementing the inmate's IHP.

Individual habilitation/education program coordination is the process by which responsibility for implementation of the individual's plan is established. The process includes providing support, obtaining direct services, coordinating services, collecting and disseminating data and information, and monitoring the progress of the individual. Each individual served by the program is assigned a case manager who is responsible for coordinating the activities and services required to implement the individual's habilitation program.

Since the relationship between case manager and inmate is crucial, certain provisos are made as follows:

- The assigned case manager responsible for coordinating the individual's program is identified to the individual and appropriate staff members;

- The program's written procedures provide for opportunities for the individual to request a change of case manager; and

- Procedures for requesting a change of case manager are made known to all parties concerned.

The case manager's duties include but are not limited to the following:

- Attending to the total spectrum of the individual's needs, including, but not necessarily limited to housing, family relationships, social activities, education, finance, employment, health (including special health needs), recreation, mobility, protective services, and records;

- Locating, obtaining, and coordinating services outside and inside the program as needed by the individual;

- Ensuring that relevant data is maintained with information provided by all other service programs in order to keep the individual program plan up to date;

- Ensuring that documentation concerning the implementation of the various components of the individual's plan is kept;

- Intervening when necessary to assure implementation of the plan;

- Requesting, when necessary, review of the individual plan by the individual's interdisciplinary team;

- Facilitating the transfer of the individual to another service when such transfer is appropriate to meet the individual's needs.

HELPING THE INMATE ACQUIRE SKILLS, RESOURCES, AND OPPORTUNITIES NECESSARY TO FUNCTION ADEQUATELY WHILE INCARCERATED AND IN SOCIETY AFTER RELEASE

Habilitation is the process by which staff and programs assist individuals in acquiring and maintaining those skills that enable them to cope more effectively with the demands of their own persons and their environments, and to raise the levels of their physical, mental, and social functioning. Habilitation includes, but is not limited to, programs of formal, structured education and training, work experience, recreation, counseling, and related services.

Education is a socially directed process to facilitate learning and development through deliberate interventions. Training refers to an

organized program for acquiring, improving, or maintaining a particular skill. Counseling is a process to develop insight into behavior patterns with the goal of correcting and modifying socially and legally unacceptable behavior. Related services include developmental, corrective, and other supportive services as may be required to assist the handicapped person to benefit from education and training. Work experience includes institutional assignments as well as prison industry. Recreation includes activities to develop physical fitness as well as meaningful use of leisure time, through, for example, arts, crafts, and music.

16 **Each inmate has access to training in independent living and social skills, developed and implemented for each individual in accordance with the individual's needs, as assessed and identified as priorities by the individual's interdisciplinary team.**

Independent living and social skills training includes, but is not limited to the following:

- Personal hygiene (including washing, bathing, shampooing, brushing teeth, and menstrual care);
- Dressing (including purchasing, selecting, and having access to clothing);
- Grooming (including shaving, combing and brushing hair, and caring for nails);
- Health care (including skills related to nutrition, use and self-administration of medication, first aid, care and use of prosthetic and orthotic devices, preventive health care, and safety);
- Communication (including language development and usage, letter writing, and availability and utilization of communication media such as books, newspapers, magazines, radio, television, and telephone);
- Interpersonal and social skills (including sharing, courtesy, cooperation, responsibility, age-appropriate and culturally normative social behaviors and relationships involving peers of the same and different sex, younger and older persons, and persons in authority);
- Home management (including maintenance of clothing, shopping, and housekeeping);
- Food and nutrition (including menu planning, initiating food orders or requisitions, storing and handling food, preparing and serving food, and maintaining sanitary standards);
- Employment and work;

- Mobility (including transportation and mapping);
- Time management (including management of leisure time);
- Financial management;
- Use of leisure time;
- Problem-solving and decision-making (including opportunities to experience consequences of decisions);
- Human sexuality; and
- Aesthetic appreciation.

17 **Each inmate has access to special and/or general education in accordance with assessed needs and an individual education plan developed by the interdisciplinary team and appropriate education staff.**

At a minimum, Special Education and Adult Basic Education should be available to permit inmates to achieve the maximum in academic education that their abilities will permit. The education program meets the following requirements:

- All individual programs meet state standards;
- All education staff are fully state certified in the areas in which they provide instruction;
- All inmates have access to Special Education, and for inmates under the age of 22, special education programming is in full compliance with EHA;
- Curricula are competency-based;
- Instruction is individualized and permits open entry/exit;
- Equipment and technology (e.g., computers) are available to maximize student achievement;
- Each student has an IEP, incorporated into the IHP;
- Educational counseling is available;
- Related services (e.g., speech pathology, audiology, visual aids) are available as needed by each individual; and
- All programs utilize methods and materials that are culturally normative and appropriate to the developmental level and chronological age of the inmate, unless use of non-normative or non-age appropriate methods or materials is justified in the individual's IHP or IEP.

18 All inmates have access to recreational activities that are designed to develop group and individual leisure time skills, social interaction skills with both sexes and all ages, and physical and mental health.

Recreation and leisure activities are elements of an individual's daily life in which participation may be planned, requested, or self-initiated to meet a basic need and to provide personal enjoyment. Recreation services provide activities for developing skills, as well as for the enjoyment of free time. Therapeutic recreation activities are deliberate and purposeful interventions to enhance an individual's development by modifying the rate and direction of behavioral change.

Such recreation activities include, but are not necessarily limited to the following:

- Daytime activities;
- After-work, evening, and weekend activities;
- Hobbies, collections, clubs, special interest and discussion groups, spectator activities, games, parties, and celebrations of special events;
- Individual, dual, and team sports, and physical fitness;
- Participation in a wide range of fine arts activities, from simple to complex, including music, drama, dance, rhythmics, arts and crafts;
- Service clubs and organizations; and
- Opportunities to use leisure time in activities of the individual's own choosing.

In order to provide appropriate and varied recreational and leisure time opportunities for inmates with mental retardation, the correctional agency provides equipment and supplies to carry out individual IHP objectives. Individuals are grouped according to their abilities and expressed interests.

PROVIDING A SYSTEM OF SUPPORTIVE SERVICES THAT WILL MAKE RE-ENTRY INTO THE OPEN COMMUNITY EASIER AND POST-RELEASE SUCCESS MORE LIKELY

19 Each inmate has access to programs and services that will enable the individual to re-enter society as a worker either in the general labor market or in sheltered employment as appropriate. These include orientation to work and employment, vocational assessment, vocational training, vocational guidance, and work experience.

Training and work opportunities must be available for incarcerated persons with mental retardation to enable them to develop as far as possible along a continuum from vocational non-functioning to remunerative employment. Work training and employment, provided or obtained by the program, are structured in such a manner as to provide the variety and graduated complexity of learning experiences necessary to accommodate the range of work potential existing within the group of individuals being served.

The program provides an orientation to work and employment, which includes, but is not limited to the following:

- The purpose, value, and necessity of work;
- Characteristics of work environments;
- The availability and risks of various career opportunities;
- Salary expectations and fringe benefits; and
- Work-related activities.

The program provides an assessment that includes as appropriate for the individual:

- Determining vocational/occupational interests;
- Measuring the individual's general and specific vocational knowledge, skills, and work abilities;
- Measuring the individual's task performance and proficiency levels;
- Assessing behaviors displayed while performing work tasks;
- Interpreting and utilizing comprehensive individual assessment data in a way that is relevant to the individual's work needs; and
- Assessing attitudes and adaptability needed for employment.

The program utilizes work evaluation and assessment data to determine the training or employment programs appropriate for the individual. The program's work evaluation process is standardized so that individual performance is evaluated against industrial norms. Individual work performance records are organized and maintained so as to provide precise data for designing the IHP. The program ensures, through ongoing review of the labor market, that its work training and employment procedures and placement objectives are current and relevant. As appropriate, the correctional agency uses the services of the state Vocational Rehabilitation Agency to conduct a complete vocational evaluation.

Inmates with retardation have access to vocational training programs appropriate to their needs, interests, and abilities. Written competency-

based training guides and curricula are available for all vocational training programs offered.

Work training includes, but is not necessarily limited to the following:

- Work activities that provide therapeutic benefits enhancing the development of the individual;
- Training that develops skills specific to identified jobs;
- Work adjustment training that develops appropriate attitudes and work habits;
- On-the-job training that leads to placement in a specific job.

The program provides, or obtains, training for the development of work-related skills. The following are examples of such skills:

- Communication procedures;
- Mobility requirements;
- Interpersonal work relationships;
- Job-seeking skills (including finding a job and applying and interviewing for it);
- Job-acceptable dress and hygiene;
- Utilization of fringe benefits;
- Understanding of grievance and separation procedures;
- Adaptation to change in work, employment conditions, or responsibilities;
- Understanding of employee organizations, such as labor unions; and
- Promotional opportunities.

MAINTAINING A SET OF PROFESSIONAL STANDARDS WITH REGARD TO MANAGING OFFENDERS, SELECTING AND TRAINING STAFF, RECORDKEEPING, AND EVALUATING THE PROGRAM

Behavior management entails the use of psycho-social intervention to modify or extinguish maladaptive or problem behaviors, and to replace them with behaviors that are consistent with social and legal norms.

20 The correctional agency has written policies and procedures that define the use and limits of behavior modification programs; the staff members who may authorize their use; and the mechanism for documenting, monitoring, and controlling their use.

Behavior management can be an effective tool, directed at maximizing the growth and development of the individual by incorporating a hierarchy of available methods. However, if employed by inadequately trained or unprofessional staff, it can lead to abuse of inmates and negative results. It is a programmatic approach that needs to be carefully defined, used only by trained professionals, and monitored on an ongoing basis. Therefore, prior to authorizing the use of specific behavior modification practices, correctional agencies need to develop detailed policies and procedures for behavior modification implementation and distribute these to all staff working with handicapped offenders. These policies and procedures should include, but not be limited to, the following areas and guidelines:

- Approved interventions to manage maladaptive behaviors;
- Method(s) to be used;
- Schedule for use of any method(s);
- Prohibitions against corporal punishment and verbal abuse;
- Prohibitions against inmates disciplining other inmates;
- Person(s) responsible for the program;
- Procedures to be employed in monitoring the program;
- Methods to be employed to file grievances and deal with abuse; and
- Data to be collected to assess progress toward the objectives.

21 Professional staff working with inmates with mental retardation meet the same standards for professional ethics, qualifications, certification, licensure, training, and retraining as required of their counterparts working with this population in other settings.

Program personnel are licensed, certified, or registered as legally required for offering services to the general public in the state in which the program is located. They are responsible for ensuring that the quality of professional services provided by the correctional agency is at least equal to the quality of services offered in the community, as judged by such criteria as physical facilities, qualifications of personnel, duration and intensity of service, and equipment and supplies.

Program administration further ensures that the following are in effect:

- Each member of the program's professional staff is familiar with and adheres to professional ethics and standards of practice promulgated by relevant professional organizations;

- Professional staff members participate, as appropriate, on prison committees concerned with programs and operations, including administrative and policymaking committees;

- Security staff work in close coordination with professional staff whose training and experience are appropriate to the program, and lines of authority and responsibility are clearly delineated in policy and procedure;

- The program maintains effective arrangements with other programs and professionals, through which services not regularly provided within the program can be obtained on a consultant basis when needed;

- Program personnel for whom state licensure, certification, or registration is not required are eligible for certification or recognition by the appropriate state or national professional organizations, when such certification or recognition is available, or have documented equivalent training and/or experience; and

- Program personnel for whom state licensure, certification or registration is not required, but who work in areas for which such licensure, certification, or registration is required, work under the direct supervision of licensed, certified, or registered personnel.

22 There are staff training programs for all professional, security, and consultant staff working with mentally retarded inmates that provide for orientation, pre- and in-service training, and opportunities for professional growth.[3]

A comprehensive staff training program for security and program staff includes, at a minimum:

- Orientation for all new employees to acquaint them with the philosophy, organization, programs, practices, and goals of the program;

- Pre-service training for each new employee;

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3 This standard is to be considered in addition to ACA standard 2-4088 requiring that all new, full-time employees receive 40 hours of orientation/training prior to being independently assigned to a particular job. For further detail, see Standards for Adult Correctional Institutions (College Park, MD: American Correctional Association, 1981).

- In-service training for employees who have not achieved the desired level of competence;
- Opportunities for continuous in-service training to update and improve the skills and competencies of all employees;
- Supervisory and management training for all employees in, or candidates for, supervisory positions;
- Training programs designed to facilitate an increase in personal effectiveness, as well as lateral and upward movement;
- Training in the interdisciplinary approach;
- Training in administering first aid, including the Heimlich maneuver and CPR (coronary-pulmonary resuscitation);
- Assessment of the training needs of staff;
- Evaluation of the training provided; and
- A method of documentation of completed training in each employee's personnel record.

Staff who have direct contact with inmates should receive training in the following areas:

- Detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- Basic skills required to meet the health needs and problems of the individual served; and
- Physical intervention techniques, the aim of which is to prevent injury to either employees or inmates.

The program also makes provisions for all staff members to improve their competencies through the following means:

- Attending staff meetings;
- Attending seminars, conferences, workshops, and institutes;
- Completing college and university courses;
- Visiting other programs;
- Participating in professional organizations;
- Conducting research;

- Publishing studies; and
- Having access to a professional library.

A staff member is designated to be responsible for staff training. This person should have an appropriate combination of academic training, relevant experience, and demonstrated competence in organizing and directing staff training programs.

The program ensures that consultants with specific expertise are available for the delivery of staff training or other types of programs of technical assistance. Furthermore, the program ensures that adequate modern educational media equipment (such as overhead, filmstrip, motion picture, and slide projectors; screens; models and charts; and video tape systems) is available for all training events.

23 The program maintains a central recordkeeping system as well as individual inmate records for the purposes of storing, retrieving, and analyzing cumulative data about inmates and program components. Records are available only to authorized personnel in accordance with state and federal regulations pertaining to confidentiality and privacy.

The program maintains a systematized, cumulative record for the collection and dissemination of information regarding individuals served. A centralized or decentralized, manual or computer-based, system of record-keeping may be used, in accordance with the needs of the program. The program's record system is supervised, on a full-time or part-time basis, according to the needs of the program, by a person who is either a Registered Record Administrator, an Accredited Record Technician, or by a person who otherwise has demonstrated competence and experience in administering and supervising the maintenance and use of records and reports. The program's record system is compatible with an existing community or state system, and includes a master index of all individuals served. Individual records are readily accessible to authorized staff.

The following information is obtained and entered in the individual's record at the time of entry into the program:

- Name, address, and telephone number; date of entry; place and date of birth; marital status; and, unless prohibited by law, social security number;
- Sex, race, height, weight, color of hair, color of eyes, identifying marks, and recent photograph;
- Name, address, and telephone number of parents, guardian, and/or next of kin;
- Mother's maiden name, birthplaces and birthdates of parents, and parents' marital status;
- Reason for incarceration;

- Language(s) spoken or understood, and languages(s) used in the individual's home environment;
- Source(s) of financial support, including social security, veteran's benefits, and insurance;
- Information relevant to religious preference;
- Reports of previous histories, evaluations, or observations;
- Age at onset of disability;
- Medication history; and
- Allergies.

The information recorded in the individual's record at the time of entry is updated periodically.

The individual's record includes a diagnosis based on the American Association of Mental Retardation Manual on Terminology and Classification in Mental Retardation, The Diagnostic and Statistical Manual of Mental Disorders: DSM-III-R (revised 1987), published by the American Psychiatric Association, or another appropriate, accepted, and current standard nomenclature.

Symbols and abbreviations used by the program are in a list approved by the program's Administrator, and a legend understood by the staff is provided to explain them. Diagnoses are recorded in full, without the use of symbols or abbreviations.

A periodic, at least annual, review of the content of the record is made. Such a review is made by record personnel to assure that records are current, accurate, and complete; and by a committee of appropriate staff, including the person responsible for supervising the program's record system, to assure that they meet the standards set forth herein.

The program has a continuing system for collecting and recording accurate data that describe the individuals served, and that are in such form as to permit data retrieval and analysis, report preparation, evaluation, and research. While the type and amount of statistical information depends upon the program's particular needs, such information includes at least the numbers of individuals served according to the following:

- Age group, sex, race, and place of residence;
- Level of retardation and/or other types of disability;
- Level of adaptive behavior, classified according to the AAMR Manual;
- Specified physical disabilities;

- Ambulatory, mobile nonambulatory, and nonmobile;
- Communication handicaps;
- Emotional and behavioral problems;
- Etiological diagnoses, classified according to the AAMR Manual; The Diagnostic and Statistical Manual of Mental Disorders; or another, appropriate, accepted, and current standard nomenclature; and
- Movement into, out of, and within the program.

24 The program evaluates, at least annually, its performance against its stated goals and objectives.

The program measures the effectiveness of its services in terms of the progress of individuals served toward the objectives specified in their IHP's. The program provides for staff involvement in the evaluation process. The program's evaluation procedures specify the following:

- Who is responsible for conducting the evaluation;
- What data are to be collected;
- When data are to be collected; and
- How the data are to be analyzed.

CONCLUSION

The standards set forth in this section are designed to reflect the "best practices" available to correctional staff in the planning, implementation, and evaluation of programs for the mentally retarded in corrections. Six main objectives were developed to set standards of achieving services specifically designed to habilitate offenders with retardation, and to reduce security and management problems unique to this group. The ultimate goal is re-entry of the offender into the community as a well adjusted, law abiding individual.

Although these standards appear to be similar in scope to those set forth in the previous section, the mentally retarded inmate often requires special education programming in a more protected environment.

Section 8

MODEL POLICIES FOR SPECIAL EDUCATION PROGRAMMING

This section outlines ten model policies of special education programs in corrections. Among the areas addressed under each policy are applicable laws, definitions, policies (defined in detail), and procedural standards. Therefore, many areas of discussion found in the preceding sections can be found incorporated in the formalized structure presented in this section.

INTRODUCTION

These "Model Policies for Special Education Programming" are based on the best current practices in the field.[1] They translate the mandates of the Education of the Handicapped Act (EHA) and Section 504 of the Vocational Rehabilitation Act, existing standards, and sound implementation into a formalized structure. They are intended for serve correctional administrators to use as a model that can be adapted for individual agency or institutional application.

It should be noted that these model policies are intended to represent a core. They cover all major program components, although they do not encompass all program elements. They are not meant to serve as a substitute for detailed processing or program manuals intended for those who actually deliver special education services to inmates, rather they set the policy framework for service delivery.[2]

These core policies are intended to insure compliance with federal law and good educational practice in special education programming for all handicapped inmates regardless of age. There are two major reasons for including all handicapped inmates rather than only those who fall under the age limits established in EHA and state law. First, other federal law--specifically Section 504--bars discrimination against the handicapped in the provision of federally supported services, including education, regardless of age. While the Section 504 requirements are not as detailed

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1 In preparation of this section, policies and procedures from more than a dozen states were reviewed. We have relied heavily on the policies and procedures from the following state agencies: the Maryland and Pennsylvania Departments of Education, and the Connecticut, Georgia, Kentucky, Michigan, Minnesota, and South Carolina Departments of Corrections.

2 Most agencies reviewed as part of this research have developed detailed processing manuals that include copies of all forms to be used. Some agencies have developed policies and procedures that are so numerous and detailed as to constitute a processing manual. Others have very minimal policies and procedures stating only that the agency will comply with EHA and leaving the detail to instructor-oriented manuals.

as those of EHA, their omission in practice may lead to charges of discrimination. For example, the procedures required by EHA define good educational practice (e.g., the development of an Individualized Education Plan); therefore, their omission may result in unintended discrimination. Hence, Section 504 requirements imply the adoption of many procedures required under EHA. The second major reason for extending these policies to all handicapped inmates regardless of age is to ensure compliance with the national Standards for Adult and Juvenile Correctional Education Programs.[3]

In order to make it easy for correctional agencies to adopt these model policies, they have been cast in the format most commonly found in corrections--that developed by the American Correctional Association.[4]

MODEL POLICIES

01 Provision of Special Education and Related Services

I. AUTHORITY: State legislative code reference(s); P.L. 94-142, as amended (Education of the Handicapped Act), 20 U.S.C. 1401 et seq.; federal anti-discrimination law 29 U.S.C. 794 (Rehabilitation Act Amendments of 1974); interagency agreement(s).

II. PURPOSE: To establish an education program for handicapped inmates needing special education and/or related services.

III. APPLICABILITY: All correctional institutions housing inmates who are eligible for special education and/or related services.

IV. DEFINITIONS: As used in this document, the following definitions apply:

A. Handicapped Inmate: The term means those evaluated as being mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, or having specific learning disabilities, who by reason thereof require special education and related services. The terms used in this definition are defined as follows:

1. "Mentally retarded" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects educational performance.

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3 Correctional Education Association, 1988. Standard 029, which is designated as "mandatory," states: "Special education programs are available to meet the needs of all handicapped students regardless of age."

4 Guidelines for the Development of Policies and Procedures: Adult Correctional Institutions. College Park, MD: American Correctional Association, 1981.

2. "Hard of hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects educational performance but which is not included under the definition of "deaf."

3. "Deaf" means a hearing impairment which is so severe as to impair the processing of linguistic information through hearing, with or without amplification, which adversely affects educational performance.

4. "Speech or language impaired" means a communication disorder such as stuttering, impaired voice or articulation, which adversely affects educational performance.

5. "Visually handicapped" means a visual impairment which, even with correction, adversely affects educational performance. The term includes both partially seeing and blind persons.

6. "Seriously emotionally disturbed" is defined as follows:

   a. The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:

      i. An inability to learn which cannot be explained by intellectual, sensory, or health factors;
      ii. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
      iii. Inappropriate types of behavior or feelings under normal circumstances;
      iv. A general pervasive mood of unhappiness or depression;
      v. A tendency to develop physical symptoms or fears associated with personal or school problems.

   b. The term includes persons who are schizophrenic. The term does not include persons who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.

7. "Orthopedically impaired" means a severe orthopedic impairment which adversely affects educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

8. "Other health impaired" means (1) having an autistic condition which is manifested by severe communication and

other developmental and educational problems; or (2) having limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects educational performance.

9. "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

B. Related services: This term means supportive services required to assist a handicapped person to benefit from special education. Related services include speech pathology and audiology, psychological services, physical and occupational therapy, counseling services, and medical services for diagnostic or evaluation purposes. They also include parent counseling and training.

C. IEP: This term refers to the Individual Education Plan developed by a multidisciplinary team to meet the inmate's individual educational needs.

D. Least Restrictive Environment: This term refers to educating handicapped students with students who are not handicapped to the greatest extent appropriate. For many handicapped inmates, the least restrictive educational environment includes both special class instruction and regular class instruction.

E. Mainstreaming: This term refers to the practice of putting a special education student in a regular classroom with non-handicapped students.

F. Continuum of Services: This term refers to the provision of several types of services for handicapped students, from least restrictive (i.e., mainstreaming) to the most restrictive (i.e., a separate, residential, 24-hour a day program for the severely handicapped).

V. POLICY: The Department of Corrections[5] provides a free appropriate education program that is available to all handicapped inmates requiring special education and/or related services.

The state compulsory attendance laws apply to correctional facilities. School age inmates up to _____(fill in the specific age established by your state law) are required to attend school. Inmates above _____(fill in the age established by your state law) may opt not to attend educational programs.

Handicapped youth under the age of _____(fill in the age specified in your state law) needing special education and/or related services must be provided with an opportunity to attend special education classes. Other handicapped inmates in need of special education or related services must be provided with an opportunity that is equivalent to that offered non-handicapped inmates. In assignment to formal special education programs and services, staffing and facilities constraints dictate that priority be given to students under _____(fill in the age specified in your state law) years of age. Components of these programs and services, however, are available to older handicapped students.

A. Program Organization. A continuum of placements is available throughout the system. Larger facilities may offer a full range of placement options. Smaller facilities may provide individualized instruction in regular classroom settings with adapted instruction and itinerant special education services.

B. Related Services. Related services are provided as identified in the student's IEP and as required for the student to be able to benefit from special education programs. Methods of providing related services vary throughout correctional facilities. Interagency cooperation is used to assure delivery of related services. Those services not available through the school program or within the institution are provided through contracts or other arrangements with community-based service deliverers.

Related services may include, but are not limited to the following:

1. Developmental services such as physical therapy and certain medical examinations;

2. Corrective services such as speech pathology, audiology, and occupational therapy; and

3. Supportive services such as counseling, psychological services, and recreation.

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5 In states with correctional school districts or where correctional education is delivered by the State Department of Education, substitute DOC for the agency in charge.

VI. PROCEDURES:

A. Institutional Special Education. To implement these departmental policies, special education services are established at each correctional institution. Educational services, Level I through IV, are available at all correctional facilities with education programs. Level V services are available only at the correctional facility designated for severely handicapped and mentally retarded inmates. Further procedures are established for the identification, assessment, and evaluation of handicapped inmates. (See policies 02 and 04.)

B. Continuum of Services. A continuum of services is provided to include the following levels:

1. Level I: Students participate in general education classes and are provided support/related services as needed.

2. Level II: Students participate in regular education classes and receive specialized instruction and related services as needed, e.g., speech therapy, occupational therapy, physical therapy, and adapted physical education.

3. Level III: Students attend some regular classes, are assigned part-time to a special resource room for specialized instruction, and receive related services as needed.

4. Level IV: Students are assigned full-time to the special education resource room, and related services are provided as needed.

5. Level VI: Students are assigned to a special unit for severely handicapped inmates in need of multiple services.

C. Least Restrictive Environment. Students are assigned to the least restrictive level in which they are deemed capable of functioning. To the maximum extent possible--considering both educational and security needs--they participate in general education programs with general population inmates.

D. Segregated Inmates. Inmates in protective custody have access to special education equal to that of inmates in the general population. Inmates in disciplinary segregation who were enrolled in special education prior to being segregated are provided the opportunity to continue their education program through access to materials and visiting instructors.

E. Program Components. Special education students have access to the following educational components as indicated in their IEP's: academic education, vocational training, life/survival skills, work experience, recreation, and physical education.

F. Transition Services. Transition services are available to assist students in the transition from special education to general education, from a special unit into the general population, or from a correctional institution into the community.

02 Identification and Referral of Handicapped Inmates

I. AUTHORITY: State law; P.L. 94-142, as amended (Education of the Handicapped Act), 20 U.S.C. 1401 *et. seq.*

II. PURPOSE: To ensure that all inmates requiring special education or related services are identified and referred for appropriate testing.

III. APPLICABILITY: All inmates eligible for special education and/or related services.

IV. DEFINITIONS: As used in this policy, the following definitions apply:

A. Handicapped Inmate: See definition under Policy 01.

B. Related Services: See definition under Policy 01.

C. MET: This acronym refers to the "Multidisciplinary Evaluation Team" established to evaluate inmates for the presence of a handicapping condition.

D. MIEPC: This acronym refers to the "Multidisciplinary Individual Education Plan Committee, responsible for developing an inmate's IEP.

E. Of-Age Inmate: This term refers to an inmate who is 18 years of age or older.

F. Not-Of-Age Inmate: This term refers to an inmate who is under the age of 18 years.

G. Parents: Natural or adopted, excluding those natural parents who by court order have been removed from parental rights. For the purposes of this document, the term will include legal guardians and surrogate parents as well.

H. Legal Guardian: Person appointed by the court to exercise the responsibilities, duties, and authority of a parent.

I. Surrogate Parent: A volunteer who represents the educational best interests of incarcerated inmates eligible for special education and/or related services. The surrogate parent is not an employee of the correctional agency or the agency providing the correctional education program. (For further detail see Policy 06.)

V. POLICY: All persons entering the correctional system are screened to determine if they might have a handicapping condition that affects their educational performance and that requires special education and/or related services. Inmates already in the system who exhibit symptoms that might indicate a handicapping condition are referred by staff for evaluation. Further evaluations are conducted whenever there is reason to believe an inmate has a handicapping condition requiring special education and/or related services.

VI. PROCEDURES

A. Initial Screening. The initial screening for an inmate's possible handicapping condition is undertaken during the reception and classification period. The following tests, at a minimum, are utilized for basic screening:

1. A standardized IQ test, generally group administered, and

2. A standardized achievement test.

B. Referral. A person who scores below 70 on the IQ test used for screening, and/or who functions two or more grade levels below the norm on the standardized achievement test for that person's age and social environment, and/or who shows any other physical or psychological signs of a handicapping condition, and who has not obtained a high school diploma or equivalent, is referred for evaluation. Referrals can be made by any correctional staff. They are made in writing on the "Special Education Referral Form" and are processed in the following manner:

1. A conference is held to inform the individual of the referral. Persons referred at a school site are interviewed by a designated school staff member.

2. School personnel present the Statement of Rights with a verbal explanation to of-age students.

3. Of-age inmates are encouraged to be tested. Written permission is obtained from the individual to conduct a multidisciplinary team evaluation; or, in the case the individual refuses, a form is signed to that effect.

4. In the case of not-of-age inmates, parents are notified for consent. (See Policies 03, 04, 05, 06 for further detail.)

C. Case Coordinator. Upon receipt of a written referral and consent to conduct an evaluation, the on-site designee assumes responsibility as case coordinator. He/she has the following responsibilities:

1. Establish a special education folder for the student;

2. Appoint a Multidisciplinary Evaluation Team (MET) to evaluate the individual for the presence of a handicapping condition;

3. Make student records available to MET members;

4. Monitor the timelines to assure that the process is completed within 30 days from the date of referral;

5. Upon receipt of MET report, schedule the MIEPC meeting and--in the case of not-of-age inmates--invite the parents to attend.

D. Multidisciplinary Evaluation Team. The MET is selected on the basis of the suspected handicap. Whenever possible, the team members are Department of Corrections (DOC) employees. Often included in the MET are the following team members:

1. An inmate's case manager;
2. A psychologist;
3. A special education teacher; and
4. Others such as social workers, speech and language clinicians, nurses, and counselors with expertise to evaluate individual with suspected handicaps.

In the event a qualified DOC employee is not available, service is arranged for on a contracted basis. Each MET member submits an individual report. In addition, a team report is generated and provided for use by the MIEPC. MET members select and administer test materials that are not racially or culturally discriminatory.

E. Evaluation. After consent to evaluate is received from the inmate (or his/her parent if not of-age), members of the multidisciplinary team (MET) conduct an individual evaluation. Evaluation activities should include the following:

1. Standardized Achievement Testing;

2. Standardized Psychological Testing;

3. Observation of inmate in school and other settings;

4. Interview with the inmate referred and the compilation of anecdotal reports;

5. Review of previous educational and correctional records, including pre-sentence investigative reports; and

6. Information from parents (when available).

And as appropriate,

7. Medical examination;

8. Speech and language assessment; and

9. Projective psychological testing.

F. Evaluation of Non-English-Speaking Persons. In the event that a student is referred whose primary language is not English, the on-site designee informs the Director of Education and he/she arranges for an evaluation in the student's primary language.

G. Reevaluation. A reevaluation of a student's continued eligibility as handicapped and the need for special education services is conducted within 3 years. Reevaluations may be conducted earlier if determined necessary and if requested by the student or the student's MET, MIEPC, teacher, or parents. Along with a review of background information and teacher observations, the examination includes a review of the student's progress in achieving the goals of his/her IEP. At all stages in the process, the involvement of the student and--in the case of not-of-age inmates--the parents is encouraged. Following the MET reevaluation, appropriate changes are made in the student's program.

H. Evaluation Outcome. An individual determined eligible and in need of special education services, is referred to a MIEPC for the development of an individualized education program and program placement. If it is determined that an individual does not need special education or related services, the MET may still want to make recommendations for modifications in the general education program to ensure the individual's successful functioning.

I. Recordkeeping. A record is kept on all students suspected of being handicapped (whether or not they consent to the evaluation), determined to be handicapped and eligible for special education as a result of evaluations (whether they accept services or not), and on those who participate in special education.

03 Notification of Rights and Policy

I. AUTHORITY: State regulations; federal regulations; P.L. 94-142, as amended (Education of the Handicapped Act), 20 U.S.C. 1401 *et. seq.*

II. PURPOSE: To ensure that handicapped inmates and their parents are informed of their procedural rights under federal and state law and departmental policy.

III. APPLICABILITY: All handicapped inmates and their parents.

IV. DEFINITIONS: As used in this document, the following definitions apply:

A. Handicapped Inmates: See Definition under Policy 01.

B. Parents: See definition under Policy 02.

V. POLICY: Handicapped inmates and their parents are informed as early as possible of their procedural rights, including those relating to identification, assessment, placement, progress reports, discipline, and confidentiality of records.

VI. PROCEDURES: A written summary of the handicapped inmate's procedural rights is prepared for distribution to the inmate and his/her parents. As needed, translations of this brochure are available in other languages or an interpreter is made available to provide a verbal translation to the inmate and his/her parents.

The written summary is provided to the inmate before a referral for an evaluation to determine whether a handicapping condition is present that warrants special education and/or related services. Additional copies of the written summary are provided to the inmate at each subsequent stage of the education process up to and including enrollment in education classes.

VII. DISCUSSION: Problems may arise with non-English-speaking handicapped inmates or their parents where the primary language is relatively uncommon among the inmate population. It is too great a burden to have the DOC prepare written materials in every possible language. It is far less of a burden to have the DOC obtain the services of a translator on an as-needed basis. Such services are contracted for directly by the DOC or obtained through the state courts' register of translators.

Notice to the parents need not be accomplished in person unless these persons are available at the correctional facility through regular visits to the inmate. Instead, telephone communication of the inmate's and parents' rights suffices. Such communication must be formally documented by a written report and filed in the inmate's education file.

04 Development and Content of the Individual Education Plan (IEP)

I. AUTHORITY: State Department of Education regulations; federal Department of Education regulations; P.L. 94-142, as amended (Education of the Handicapped Act), 20 U.S.C. 1401 *et. seq.*

II. PURPOSE: To specify the procedures used in developing, reviewing, and assessing the IEP's of inmates enrolled in special education programs.

III. APPLICABILITY: All correctional education programs for handicapped inmates.

IV. DEFINITIONS: As used in this document, the following definitions apply:

A. Handicapped Inmate: See definition under Policy 01.

B. Related Services: See definition under Policy 01.

C. IEP: See definition under Policy 01.

D. Parents: See definition under Policy 02.

E. MET: See definition under Policy 02.

F. MIEPC: See definition under Policy 02.

G. Least Restrictive Environment: See definition under Policy 01.

V. POLICY: Each student entering a special education program is provided with an individual education plan (IEP), developed by a multi-disciplinary, fully credentialled team, within 30 days of the MET's determination that the individual is eligible for and in need of special education. The IEP is reviewed twice yearly. Earlier reevaluations are conducted when required. Full reevaluations are conducted every 2 to 3 years, depending upon IEP placement and student progress. Due process is observed, and inmates and the parents of not-of-age inmates are informed of due process rights concerning the development and implementation of the IEP.

VI. PROCEDURES:

A. The MIEPC. When the MET has determined that an individual is in need of special education and consent thereto has been obtained, a multidisciplinary committee is formed to develop the individual's IEP and a case manager is assigned. The MIEPC includes at a minimum:

1. The individual's case manager;
2. School principal or designee;
3. Regular classroom teacher;
4. Special education teacher; and
5. Parents of not-of-age inmates. (See Policy 06 for further detail on surrogate parents.)

The following may also be included:

1. Social worker;
2. Psychologist;
3. Speech or language clinician;
4. Nurse; and
5. Counselor.

B. Student Involvement. The individual whose IEP is being developed is involved throughout the IEP development process.

C. Timelines. The IEP is developed within 30 days of determination that the individual is handicapped.

D. Requirements. The IEP is prepared in writing, and has the following requirements:

1. Developed in accordance with the principles of nondiscrimination, the least restrictive environment, and recognized professional standards;

2. Based on assessment data and other relevant information; and

3. Implemented immediately following the approval of the student and in the case of not-of-age inmates, that of the parents.

E. IEP Components. The IEP must include the following components:

1. A description of the special education and related service needs of the inmate;

2. A statement of annual goals and periodic review objectives including criteria for attainment;

3. The plan for, location, and frequency of periodic reviews;

4. The reasons for the type of educational placement and special education and related services provided, substantiated in accordance with the principle of least restrictive environment;

5. The location, amount of time, starting date, anticipated duration, and names and telephone numbers of the personnel responsible for providing the special education services;

6. The changes needed in staffing, facilities, curriculum, methods, materials, and equipment; and

7. A description of the educational activities in which the student can participate with non-handicapped students when the inmate's primary placement is in a special education program.

F. Duration. The IEP is in effect for 12 months from the date agreed to by the inmate or his/her parents--unless stated otherwise or terminated.

G. Special Provision for Not-Of-Age Inmates. The following apply to not-of-age inmates:

1. The school does not proceed with the initial placement and provision of services without the prior written consent of the inmate's parents.

2. Except for the initial placement and provision of services, the school proceeds with implementation of the IEP unless the parents object in writing within 10 school days after receipt of the notice.

3. Whenever the institution plans to initiate or change, or refuses to initiate or change, the level of placement in the special education continuum, notice to the parents is required. The notice is served within 10 school days following completion of the IEP or refusal to initiate or change an inmate's educational program.

4. The notice is in writing and is in the primary language of the home. Reasonable provisions are made to ensure communications with non-English-speaking persons, non-readers, and persons who are handicapped because of a communication disorder.

H. Periodic Reviews, Annual Review, Reassessment, and Follow-Up. The following procedures pertain to the IEP:

1. Periodic review dates are specified in the IEP and occur at least twice per year following placement.

   a. Included in the periodic review process are those persons directly responsible for implementing the educational program as well as others needed to ensure an informed and adequate review. The annual review may be counted as one periodic review if required procedures for the annual review are followed.

   b. The purpose of the periodic review is to determine the degree to which the objectives, as specified in the IEP, are being achieved and whether modifications to the IEP are needed.

   c. The results of each periodic review are documented and filed in the inmate's due process folder, and a copy is sent to the parents in the case of not-of-age inmates. The copy informs the parents that a conference to review the student's program can be requested at any time. The request procedures are outlined.

   d. The annual review results in either continuation, change, or termination of special education and/or related services, or any portion thereof, and is subsequently processed according to the proposed action.

2. A full educational reassessment is conducted every 2 years for inmates receiving special education services and for whom a special education program is the primary placement.

3. A full educational reassessment is conducted every 3 years for inmates receiving special education services but for whom a regular education program is the primary placement.

4. A follow-up review of the inmate's current performance is conducted no later than 12 calendar months after special education and/or related services are discontinued. The purpose of the review is to determine if progress without the special services is satisfactory.

I. Conciliation Conference. Provision is made for a conciliation conference.

1. Such a conference is convened in the following cases:

   a. The of-age inmate or parents object in writing to a proposed plan to assess, reassess, or provide special education services; or

   b. The of-age inmate or parents refuse to provide prior written consent, and the proposed action is either an initial assessment or an initial placement in a special education program; or

   c. The of-age inmate or parents request a conciliation conference following the institution's refusal to assess, reassess, or provide special education services.

2. The parents must object in writing or refuse to provide written consent for an initial assessment or special education placement within 10 school days after the parents have received notice of the proposed action.

3. A memorandum of understanding must be sent to the of-age inmate or parents within 7 calendar days of the final conciliation conference. The parents must respond within 7 calendar days of receipt of the memorandum to approve or reject the memorandum's recital of resolution.

4. Where no complete reevaluation is reached at a conciliation meeting, a written report of the issues that were resolved and the action that the school intends to take is sent to the of-age inmate or parents within 7 calendar days of the final conciliation conference. The of-age inmate or parents must respond within 7 calendar days of receipt of the memorandum to request an appeals hearing.

J. Hearings. A hearing regarding a proposed action is held whenever the school receives a parental request, provided that at least one conciliation conference has been convened and no resolution was reached.

05 Procedural Safeguards

I. AUTHORITY: State Department of Education regulations; federal Department of Education regulations, 34 C.F.R. 300.1 *et seq.*; P.L. 94-142, as amended (Education of the Handicapped Act), 20 U.S.C. 1401 *et. seq.*

II. PURPOSE: To ensure that all procedural safeguards are afforded eligible handicapped inmates and their parents.

III. APPLICABILITY: All correctional education programs for handicapped inmates.

IV. DEFINITIONS: As used in this document, the following definitions apply:

A. Handicapped Inmates: See definition under Policy 01.

B. Related Services: See definition under Policy 01.

C. Of-Age Inmates: See definition under Policy 02.

D. Not-Of-Age Inmates: See definition under Policy 02.

E. Parents: See definition under Policy 02.

F. IEP: See definition under Policy 01.

V. POLICY: All procedural safeguards are afforded handicapped inmates eligible to enroll in education programs. Youthful handicapped inmates needing special education services are provided all procedural safeguards relating to their youth status. All other handicapped inmates are provided procedural safeguards relating to their eligibility for education classes, progress assessment, and disciplinary hearings.

VI. PROCEDURES:

A. Hearings. Due process hearing requirements are met in proceedings involving the following decisions about handicapped inmates:

1. Assessment;
2. Identification of the need for special education services;
3. Development of an IEP;
4. Progress reporting; and
5. Disciplinary actions, including suspensions.

B. Due Process Requirements. These include, but are not limited to the following requirements:

1. Notice;
2. Hearing;
3. The right to present witnesses; and
4. The right to confront and examine accusers and other witnesses.

Due process requirements apply to both student inmates and their parents.

C. Procedural Safeguards/Due Process Procedures. These include the following safeguards:

1. The parents of a not-of-age inmate and the of-age inmate have the right to review all of the inmate's educational records that are the basis of any educational decisions made.

2. They have the right to have the inmate independently tested.

3. They must receive adequate notice prior to an evaluation or a change in the educational placement of voluntarily enrolled students. The notice must be in writing and in the primary language of the home.

4. The written notice states the proposed action and why it is necessary. A description of tests and procedures upon which the action is based is included.

5. Parental (in case of not-of-age inmates) and of-age inmate consent is obtained prior to conducting a preplacement evaluation and prior to initial placement of a handicapped inmate in a program providing special education and related services to voluntarily enrolled students.

6. Of-age inmates and the parents of not-of-age inmates are given prior notice by staff concerning the date and time the evaluation meeting is held. In the meeting, they are involved in the development of the IEP.

7. Information relating to the impartial due process hearing that concerns parental and inmate rights during the proceedings is provided in writing.

8. When the not-of-age inmate is a ward of the state or his/her parents are unknown or unavailable, the inmate is represented by a trained surrogate parent.

D. Disciplinary Actions. Disciplinary actions include expulsion or suspension for a limited period of time. All disciplinary actions must be approved by either the parents or by the state Education Department. Approval from the Department of Education of temporary suspension pending a hearing is limited to the following grounds:

1. Parental consent not obtained; and

2. Student presents a danger; and/or

3. Student is involved in criminal action in school; and/or

4. Student exhibits disruptive conduct that the school has attempted without success to control.

VII. DISCUSSION: These general principles regarding due process protection are supplemented below by more detailed expositions of the correctional education policies and programs relating to specific aspects of the education program. These policies are applicable to all correctional education programs, not merely those providing special education and/or related services under EHA. Conversely, federal and state law prohibit both discrimination against and unwarranted favoritism for handicapped students.

06 Surrogate Parents

I. AUTHORITY: State Law cite; P.L. 94-142, as amended (Education of the Handicapped Act), 20 U.S.C. 1401 *et. seq.*

II. PURPOSE: To assure that all handicapped inmates eligible for special education and/or related services have parental protections in the absence of their natural parents or other legal guardian(s).

III. APPLICABILITY: All handicapped inmates eligible for special education and/or related services who are either (1) wards of the state, (2) not-of-age and whose parents are unknown or unavailable, or (3) of-age but whose intelligence level requires the assistance of mature adults to help with educational decisions and whose parents are unknown or unavailable.

IV. DEFINITIONS: As used in this document, the following definitions apply:

A. Handicapped Inmates: See definition under Policy 01.

B. Related Services: See definition under Policy 01.

C. IEP: See definition under Policy 01.

D. Of-Age Inmates: See definition under Policy 02.

E. Not-Of-Age Inmates: See definition under Policy 02.

F. Parents: See definition under Policy 02.

H. Surrogate Parent: See definition under Policy 02.

I. Unavailable Parents: This term means that the identity of the student's natural or legal parents is known, but under the following circumstances:

1. The parents' address is unknown; or

2. The parents are unable to act in the inmate's best educational interests and have signed a statement attesting to that fact; or

3. The parents have not been reachable after three good faith efforts to inform them of theirs' and their child's rights; or

4. The parents have failed to participate in their child's educational decisionmaking process, despite notice and/or professed agreement to participate, as evidenced by at least three such occurrences.

V. POLICY: All handicapped inmates who are wards of the state or whose parents are unknown or unavailable and who are not-of-age are entitled to have a surrogate parent who will act as an advocate for the best interests of the inmate in procedures relating to the provision of special education services.

VI. PROCEDURES:

A. Determination of Unavailability of Parents. Unavailability of the natural or legal parents of an inmate student to participate in the educational decisionmaking process may be signified by the following:

1. A written statement to that effect; or

2. Documentation of oral refusals to participate given to an employee or agent of the department assigned to solicit parental involvement; or

3. Documentation of repeated instances of failures by the parents to participate with no reasonable explanation for failure to participate in person, through mail correspondence or by telephone.

B. Notification of Parents. Parents who are determined to be unable to represent the inmate student's best interests are notified that a surrogate parent will be appointed to represent their child's interests. Objections to the appointment by the parents are responded to by reiteration of the limited purposes of the appointment.

C. Selection of Surrogates. The DOC surrogate parent coordinator selects surrogate parents from a list of volunteers provided by outside agencies. These agencies may include the State Advocacy and Protection Agency, the State Public Defender Agency, the

State Council on Volunteers, the State Association for Retarded Citizens, the Retired Teachers Association and other health and welfare organizations. Surrogate parents are selected on the basis that they have no conflicts of interest that will interfere with the best interests of the inmates represented, and they have appropriate knowledge and skills. An appointment letter is sent to each surrogate parent as formal notification of rights and responsibilities.

D. Training. Training for surrogate parents is provided by the DOC itself or in conjunction with the referring agency. This training includes all elements required by the state education agency for training of surrogate parents in noncorrectional contexts. In addition, the training includes instruction on relevant correctional agency policies such as those relating to special education, visitation schedules, and security procedures. A tour of the facility is included in the training.

E. Duties of Surrogates. Surrogates represent the best interests of the inmate student in all matters relating to identification, evaluation, and educational placement; maintenance and confidentiality of the educational records of the inmate student; and provision of a free appropriate education. Surrogate parents participate actively in the special education decisionmaking process in the following ways:

1. Reviewing student files;

2. Interviewing students;

3. Interviewing students' teachers;

4. Observing students in the classroom whenever possible;

5. Reviewing samples of students' work; and

6. Attending and participating in the multidisciplinary decisions.

F. Recordkeeping. Each surrogate parent keeps a monthly log of assigned students, the current status of each student, and the surrogate's activities relating to each inmate student. The log is submitted to the surrogate parent coordinator on a monthly basis. The coordinator reviews each surrogate parent log to ensure that the surrogate parent is fulfilling his/her responsibilities, including attendance at IEP meetings.

G. Termination. Termination of a surrogate parent may occur for the following reasons:

1. The surrogate parent fails to fulfill the responsibilities of his/her position;

2. The surrogate parent requests termination in writing;

3. The inmate is transferred to another facility that is not geographically accessible to the surrogate;

4. The student inmate is no longer enrolled in special education, except when termination is contested;

5. The student inmate is no longer eligible for a surrogate parent; e.g., he/she reaches the age of 18; and

6. The student inmate or staff requests a change of surrogate parent with accompanying documentation.

Recommendations for termination are made by the surrogate coordinator to the principal. The principal issues a written termination notice at his/her discretion. Where a change in the surrogate parent is the action requested, the coordinator is responsible for placement of a new surrogate parent.

07 Discipline of Handicapped Inmates Receiving Special Education or Related Services

I. AUTHORITY: 20 U.S.C. 1415; P.L. 94-142, as amended (Education of the Handicapped Act), 20 U.S.C. 1401 *et. seq.*

II. PURPOSE: To establish a uniform policy for disciplining handicapped inmates attending special education classes or receiving related services under an IEP.

III. APPLICABILITY: All correctional education programs and staff serving handicapped inmates.

IV. DEFINITIONS: As used in this document, the following definitions apply:

A. Handicapped Inmates: See definition under Policy 01.

B. Related Services: See definition under Policy 01.

C. IEP: See definition under Policy 01.

D. Parents: See definition under Policy 02.

E. MIEPC: See definition under Policy 04.

V. POLICY: The DOC provides an appropriate education to all eligible handicapped inmates requesting education at all levels of custody. However, educational placements reflect the inmate's security rating as set by classification and discipline hearing boards. Inmates in administrative segregation continue to receive instruction as directed by the IEP to the extent that security conditions allow. Disciplinary restrictions for less severe violations of institutional

conduct rules may be punished in a manner resulting in temporary absence from classes, provided that such absences do not exceed 5 days at any one time or 15 days per school year. If a disciplinary transfer to another facility occurs, efforts are made to continue the educational program developed for the inmate. The IEP may be revised based upon disciplinary history after consultation with the MIEPC, the inmate, and in the case of not-of-age inmates, his/her parents.

VI. PROCEDURES:

A. Institutional Rule Violation. Handicapped inmate students who violate institutional rules outside the school are treated no differently by the disciplinary process than other inmates, with the following provisos:

1. Due process rights are provided to inmates charged with disciplinary infractions as set forth under Policy 05.

2. School authorities are notified of any pending disciplinary hearings on handicapped inmate students. School personnel prepare an alternative education service delivery plan for the disciplined inmate whenever the discipline results in an inability to attend classes per the IEP. As needed, the IEP is modified to reflect the changed conditions (e.g., placement in administrative segregation). The consent of the inmate, and in the case of not-of-age inmates of his/her parents, is sought for any significant modifications in the IEP.

B. In-School Violations. Handicapped inmate students who violate institutional rules in the school are disciplined in the same way as non-handicapped students, except that suspension from classes unaccompanied by administrative segregation is subject to the following:

1. Whenever appropriate, punishments less severe than suspension are used. These include the use of study carrels in lieu of class, time-outs, detention for short periods of time, and restriction of privileges. Handicapped inmate students may also be suspended temporarily from classes for a period not to exceed 5 school days. This is considered a "cooling down" period to minimize class disruption without seriously affecting student learning. This period may be used to initiate an IEP review.

2. All procedural rights included in Policy 05 are provided in the IEP review. If the handicapped inmate student and his/her parents do not agree to the proposed revision of the IEP, any unilateral action by the school to implement a revised IEP is forestalled. In the event of such nonagreement, school authorities may seek departmental approval to request court approval of a revised IEP under Section 1415(e)(2) of the Education for All Handicapped Children Act.

VII. DISCUSSION: The U.S. Supreme Court has recently discussed the legal constraints upon local school authorities in disciplining handicapped students placed in education programs under the IEP provisions of the Education for All Handicapped Children Act (See *Honig v. Doe*, 108 S.Ct. 592 [January 29, 1988]). The limitations placed upon local authorities by that decision do not seem fully applicable to the correctional environment. School authorities do not typically have the general disciplinary powers provided correctional authorities. There is no suggestion in the opinion that the Court's decision overrules the normal deference given to correctional administrators. Nonetheless, the principles articulated in the opinion about Congressional concern for unbridled administrative discretion--resulting in the past in DE facto exclusion of handicapped students--seem relevant to the correctional context. Thus distinctions must be made between disciplinary actions relating to in-school behavior and other disciplinary contexts. Further, within the school context, distinctions must be made between behavior that is merely disruptive of the school environment and behavior that outside the school would result in disciplinary action by correctional authorities. Thus, where the behavior in question may be said to be related to an interaction between the handicapping condition and the pressures of the school environment, measures less drastic than suspension or expulsion are to be considered first. However, where the disruptive behavior is not related to any handicapping condition, normal correctional disciplinary procedures and punishments may be imposed.

Disciplinary action may also be accompanied by a need to modify the content of the IEP. The Court's decision in *Honig v. Doe* makes it clear that inmate or parental concurrence should be sought for such modifications. Where agreement is not obtained, the Department may not unilaterally impose a change on its own motion. Approval of a court must be obtained where quick action is needed on the IEP modification. Where quick action is not required, administrative processes for modifying the IEP without inmate or parental consent may be more appropriate.

08 Recordkeeping, Including Confidentiality of Records

I. AUTHORITY: State law; P.L. 93-380 (Privacy Right of Parents and Students Act), 120 U.S.C. 1232g; P.L. 94-142 as amended (Education of the Handicapped Act), 20 U.S.C. 1401 *et seq.*

II. PURPOSE: To ensure that complete records are kept for all handicapped inmates enrolled in correctional education classes, that these records are accurately maintained, and that these records are not disclosed to unauthorized persons.

III. APPLICABILITY: All correctional education programs serving handicapped inmates.

IV. DEFINITIONS: As used in this document, the following definitions apply:

A. Handicapped Inmates: See definition under Policy 01.

B. Of-Age Inmates: See definition under Policy 01.

C. Parents: See definition under Policy 02.

D. IEP: See definition under Policy 01.

E. Disclosure: This term means permitting access to or the release, transfer, or other communication of education records of the student or personally identifiable information contained therein orally or in writing or by any other means.

V. POLICY: Individual, complete, and accurate correctional education records are maintained for all handicapped inmate students. Inmate students and their parents have the right to review these records and to request correction of the records when they believe them to be inaccurate. Disclosure of student records to an unauthorized party without the written approval of the student and/or parents is prohibited.

VI. PROCEDURES:

A. Separation of Institutional and Education Records. A clear separation of institutional and educational records must be maintained. Educational records are open to parents and of-age inmates as noted in section D below. Information to be included in the education records should be as follows:

- Relevant and necessary to educational decisions,
- Appropriate for open viewing by parents and/or inmates.

Institutional and other information not directly relevant to education decisions should be maintained as a part of institutional or other inmate records.

B. Education Records. Education records means those records directly related to an inmate student that are collected, maintained, and used by the education program. These records may include, but are not limited to the following items:

1. Personal and family data;

2. Evaluation and test data including aptitude, achievement, interest, intelligence, personality, behavior observation, and other diagnostic information;

3. Medical, psychological, and anecdotal reports;

4. Records of school achievement and progress reports;

5. The IEP;

6. Records of conferences with students and/or parents (including IEP meetings);

7. Copies of correspondence concerning the student; and

8. Other information or data that may be useful in working with the student and/or is required by federal and state regulations.

C. Location of Records. These records are located in each student's cumulative folder. They are stored at a secure location designated by the principal. The principal or designee is responsible for the maintenance and confidentiality of these records. Additional records and/or copies of records may be maintained in separate files at the discretion of the principal. However, parents inspecting the records of their child must be informed of the type and location of such additional records, if maintained.

D. Review of Education Records. Parents and of-age inmates have the right to inspect and review any education record relating to the inmate.

1. This right includes the right to a response to reasonable requests for explanations and interpretations and the right to receive copies of the records upon request.

2. Parents are presumed to have these rights unless the education program has been advised that the parents do not have the authority under applicable state laws governing parental rights. In this case, the student acquires the sole right to review or grant review and/or inspection of his/her educational records.

3. Requests to review and inspect the records are addressed to the principal. Such requests must be complied with within a reasonable period of time, not to exceed 10 calendar days, and before any committee meeting concerning the identification, evaluation, or placement of the inmate. Copies of the required records must be received by the requestor at least 3 days prior to the scheduled meeting.

4. If any record contains information on more than one student, the inspection and review of that record is to be limited to the record pertaining to the of-age inmate or the parents requesting the information. If copies of the records are requested, a fee of 10 cents per page may be charged unless this would prevent the inmate or parents from reviewing the records.

E. Amendment of Education Records. The parents and of-age inmate may request the amendment of any record believed to be

incomplete, inaccurate, misleading, or otherwise in violation of the privacy or other rights of the inmate.

1. Such a request is addressed in writing to the principal and must indicate the specific record for which the amendment is requested.

2. The principal or designee must review the request for amendment within 10 calendar days after the request is received. If the records are amended, the parents and of-age inmate are notified of the amendment. If the request is refused, the parents and of-age inmate are notified of their right to a hearing.

F. Hearing Rights on Educational Records. The parents and of-age inmates may request a hearing to challenge information in the education record so as to ensure that it is not incomplete, inaccurate, misleading, or otherwise in violation of the privacy or other rights of the inmate.

1. Such requests are addressed in writing to the principal who is responsible for ensuring that appropriate staff respond to such requests in a complete and timely manner.

2. The principal appoints a Hearing Officer, e.g., an institutional grievance officer. The Hearing Officer is an official with no interest in the outcome of the hearing. He/she conducts the hearing in accordance with the following procedures:

   a. The Hearing Officer sets the date for the hearing that must be held within 10 calendar days after the request is received. The Hearing Officer notifies the parents and/or the of-age inmate well in advance of the exact date, place, and time of the meetings and the hearing procedures.

   b. The parents and/or the of-age inmate are afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by an individual of their choice at their own expense, including an attorney.

3. The decision of the Hearing Officer is based solely upon evidence presented at the hearing by both the parents or the of-age inmate and education program officials.

4. The Hearing Officer makes a decision within 10 calendar days after the conclusion of the hearing. The parents and/or the of-age inmate are notified, in writing, of the decision. This notice includes a summary of the evidence presented and the reasons for the decision.

5. If the decision is that the records are accurate, not misleading, or not in violation of the privacy or other rights of the inmate, the parents and the of-age inmate have the right to place in the education records of the student a statement commenting upon the information in the records and/or setting forth any reasons for disagreeing with the decision. Such statements are maintained as a part of the education records for as long as the contested portion of the records is maintained. If the contested portion is disclosed to another party, this statement will also be disclosed to such party.

6. If the records of an inmate student are not amended as a result of a hearing, the of-age inmate or his/her parents are informed of their right to appeal to the State Chief School Officer.

G. Disclosure of Education Records. Written consent of the parents or the of-age inmate is required for disclosure of any education records to any party or agency or under any condition other than those specified below. Only the principal or designee may disclose records.

1. Disclosure is made to the following individual(s) or under the following conditions without written parental or of-age inmate consent:

   a. The of-age inmate;

   b. Parents of a not-of-age inmate;

   c. School officials including teachers who have a legitimate educational interest in the records because of their direct involvement in the planning or implementation of the education program (this includes substitute teachers and student teachers where specifically authorized by a teacher or the head of the education program to have direct, current, academic involvement with the student);

   d. Officials of other schools or school systems in which the student intends to enroll, upon the condition that the parents or the of-age inmate may receive a copy of the record, if they desire and at their expense, and have an opportunity for a hearing to challenge the content of the record;

   e. Federal and state education officials (for official purposes, e.g., for monitoring compliance with EHA);

   f. Organizations conducting studies for or on behalf of the education program;

g. Accrediting organizations so that they may carry out their functions;

h. Appropriate parties in cases of health and safety emergencies;

i. Parties involved with student applications and/or receipt of financial aid; and

j. Of-age inmates and parents where the issue is compliance with a judicial order or lawfully issued subpoena.

2. A record of disclosures (access) must be maintained on all requests for and all disclosures except those to the parents, of-age inmate, school officials, and the exceptions listed above. The record includes the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. The record is kept in the student's cumulative folder and may be inspected by the parents, the of-age inmate, and school officials.

3. Education records are disclosed to an authorized third party as listed above only on the condition that the party to whom the information is disclosed does not further disclose the information to any other party (except officers, employees, or agents of the organization) without prior written consent of the parents or of-age student and that the information is used only for the purpose for which it was disclosed.

H. Destruction of Education Records. Education records are maintained for a period of at least 3 years after release of the inmate from the correctional system. After that period, education records may be destroyed except when there is an outstanding request to inspect and review them. Explanations placed in records as a result of a hearing and the record of disclosures must be maintained for as long as the education records to which they pertain are maintained.

09 Evaluation and Monitoring

I. AUTHORITY: P.L. 94-142, as amended (Education of the Handicapped Act), 20 U.S.C. 1401 *et. seq.*; 34 C.F.R. 300a.

II. PURPOSE: To provide for monitoring and evaluation by DOC staff of special education programs serving handicapped inmates and to establish procedures for DOC staff cooperation with State Education Agency (SEA) monitoring and evaluation teams.

III. APPLICABILITY: All correctional education programs serving handicapped inmates.

IV. DEFINITIONS: As used in this document, the following definitions apply:

A. Handicapped Inmates: See definition under Policy 01.

B. Related Services: See definition under Policy 01.

C. IEP: See definition under Policy 01.

D. MIEPC: See definition under Policy 02.

E. SEA: This refers to the state agency charged with the administration of education and responsible by law for the implementation of EHA in the state.

V. POLICY: The DOC provides for the monitoring and evaluation of all special education programs, including the provision of related services, to ensure that these programs are in compliance with applicable state and federal law and are providing an appropriate free public education to all eligible inmates desiring such services. The DOC monitoring program complements and uses information from SEA monitoring and evaluation reviews of correctional special education programs. The staff of the education program and other DOC employees are aware of the importance of cooperating with SEA personnel in their evaluation of special education programs, and they are assigned tasks designed to ensure such cooperation.

VI. PROCEDURES:

A. Staff Responsibilities. DOC staff are assigned responsibility on an annual basis for monitoring the integrity and effectiveness of the special education program. Such staff have expertise in educational evaluation methods and are given adequate time to conduct the monitoring review and prepare a report on their findings. Principals ensure that institutional education staff are prepared and respond to all requests for information by DOC and SEA monitors and evaluators.

B. Reporting Data. Staff prepare reporting forms on which special education staff provide program information. This information includes statistical annual and monthly activities summaries of the following numbers:

1. Inmates tentatively identified as needing special education and/or related services;

2. Inmates assessed as needing special education and/or related services;

3. Inmates receiving special education and/or related services;

4. Inmates refusing to be considered for special education at assessment or at the MIEPC meeting or to be placed in the special education program;

5. IEP meetings held;

6. Impartial hearings requested and/or held;

7. Surrogate parents appointed; and

8. Parents and/or surrogate parents contacted with requests for consent.

This statistical information is supplemented by an analysis of the reasons given for refusal of special education participation or consent.

C. On-Site Reviews. On-site examination of each special education program and class is undertaken at least annually. This examination includes, but is not limited to the following activities:

1. Interviews with a sample (no less than 10 percent) of those inmates eligible for special education services but not participating as well as those who are participating;

2. A review of a sample of records of special education participants to assess the adequacy of their IEP;

3. Interviews with special education staff;

4. Interviews with the head of the education programs at all DOC institutions;

5. Interviews with the head of all agencies or organizations providing special education services on contract to handicapped inmates; and

6. Interviews with all persons providing related services to handicapped inmates, such as translation or psychological counseling.

D. Special Assessments. The annual monitoring includes special assessments of the following:

1. The existence of any architectural barriers which limit the education services to the handicapped;

2. The adequacy of hearing aids or other devices used to mitigate physical handicaps which may, if inadequate, limit the utility of the education services provided to the handicapped inmate;

3. The availability of special education services to inmates not in the general population, e.g., in segregation, protective custody, or medical units;

4. Problems with interagency agreements or coordination involving other service providers;

5. Problems associated with complying with due process requirements;

6. Problems related to the appropriateness of the IEP's reviewed;

7. Problems in recordkeeping;

8. Problems associated with identification (child find) efforts;

9. Problems with the curriculum offered;

10. Problems in the availability of related services;

11. Problems related to staff qualifications or in-service training;

12. Problems associated with parental or family participation; and

13. Problems associated with policy and procedure statements, e.g., failure of staff to understand the policies and procedures, incomplete scope, or the intentional disregard of staff for policies and procedures.

E. Cooperation with SEA. DOC staff assigned monitoring duties to provide staff from the SEA with copies of all reports prepared and assist SEA staff with any interpretation needed. DOC staff, consultants, or services providers assist SEA staff with completing their evaluations in as full and complete a manner as possible. The principal is responsible for coordinating with SEA staff and handling all reports of failure to cooperate. A central office staff person oversees the institutional implementation efforts of this policy and procedures statement.

10 Personnel Development

I. AUTHORITY: State law; P.L. 94-142, as amended (Education of the Handicapped Act), 20 U.S.C. 1401 *et seq.*

II. PURPOSE: To ensure that professionally competent personnel are responsible for all facets of the correctional education program serving handicapped inmates.

III. APPLICABILITY: All correctional education programs serving handicapped inmates.

IV. DEFINITIONS: As used in this document, the following definitions apply:

A. Handicapped Inmates: See definition under Policy 01.

B. MIEPC: See definition under Policy 02.

C. MET: See definition under Policy 02.

V. POLICY: Only persons qualified under state education agency standards are employed to serve handicapped inmates. In-service training related to the education of the handicapped is provided to school personnel as needed. These personnel include teachers of handicapped inmates, education administrators, support personnel, transportation providers (as applicable), and security staff assigned to education programs.

VI. PROCEDURES:

A. Teacher Certification. All teachers must hold valid state teaching certificates. Regular academic and vocational teachers are responsible for providing instruction to handicapped students who are determined by the MIEPC as being appropriately served in the regular education program.

B. Special Education Certification. Only teachers holding special education certification are assigned to teach handicapped students in separate special education classes, resource rooms, or special units for the handicapped, or to serve as learning specialists for this population.

C. Learning Specialists. The activities of the learning specialist generally follow those outlined in the State Rules and Regulations for teacher consultants, with additions as indicated by the specific needs of the incarcerated population. The learning specialist includes, but is not limited to the following roles:

1. Providing instructional or other support services to students who have been identified as handicapped;

2. Providing services to students whose handicap is such that they may be educated effectively within a regular classroom if support services are provided to them;

3. Providing consultation to education personnel on behalf of the handicapped persons on their caseload;

4. Carrying an active caseload of not more than 25 handicapped students;

5. Serving as an itinerant staff person in one or more school buildings;

6. Participating as a member of an MET to assist in the evaluation of the educational needs of persons suspected of being handicapped;

7. Providing programs and services to persons in administrative segregation when appropriate;

8. Coordinating student's educational programs within the broader institution (consulting with Resident Unit Managers, Classification, etc.); and

9. Consulting with parole and community based agencies providing services to the handicapped during the release process to aid in ensuring continuity of services.

D. Staff Training. Pre- and in-service training is provided for all educational staff serving handicapped inmates. Training includes the following procedures:

1. Documenting attendance. Attendance rosters are kept in a training attendance file at each facility school. A copy of the roster is forwarded to the central office;

2. Providing new staff with a 2-week orientation program, which includes detailing the departmental policies relating to the education of handicapped inmates; and

3. During the first 6 months of serving handicapped inmates, having staff weekly review meetings with the principal or designee to discuss any problems.

E. Other Staff Activities. Staff dealing with handicapped inmates are also expected to participate in the following activities:

1. MIEPC's;

2. Weekly case reviews;

3. Periodically scheduled in-services;

4. On-site visits to other correctional facilities in the state; and

5. Departmental level training sessions.

F. Annual Assessment of Personnel Training Needs. The DOC conducts an annual assessment of special education staff training needs in coordination with the SEA which is responsible for such annual assessments under EHA.

G. Professional Growth. The DOC encourages and facilitates special education staff to participate in further professional growth opportunities. These include, but are not limited to

1. Attendance at state, regional, and/or national conferences and training seminars;

2. Graduate studies at accredited universities; and

3. Relevant research activities.

CONCLUSION

The "Model Policies for Special Education Programming" place the legal mandates, existing standards, and implementation techniques of special education programming into a formalized structure. The purpose of this section is to establish a framework for policy and to insure compliance with federal law and sound education practices in special education programming, regardless of the handicapped inmate's age. The framework can be used to develop more detailed processing or program manuals by individual agencies.

Section 9

RESOURCE GUIDE

A wide variety of resources are needed in order to implement appropriate services for learning disabled and mentally handicapped offenders. Limited correctional budgets, staff, and in-house expertise can be considerably augmented by available resources on the federal, state, and local levels. Furthermore, by getting technical advice and information during the planning and development stage, correctional agencies can often avoid costly and time-consuming duplication of efforts.

A large number of resources are available to correctional agencies. This guide is intended to alert correctional staff to a whole range of sources for technical assistance, information, literature and materials, training, advocacy, volunteers, legal assistance, research, and professional networking. All of the resources in this listing have mandates which include handicapped clients whether in corrections or the community. Most have already been utilized by correctional agencies or expressed willingness to provide services to corrections if approached.

Except for key state governmental agencies, this guide is limited to nationally available resources some of which have state offices as well. The local community is often an additional resource, offering a whole range of services on which corrections can draw. Community organizations such as the United Way or state agencies can usually help identify locally based organizations offering assistance to various handicapped populations. The national organizations listed below often have state, or even local, listings of affiliated community-based groups.

1. Clearinghouses and Information Centers

THE CLEARINGHOUSE ON THE HANDICAPPED provides information on a wide range of topics concerning handicapping conditions and related services. It provides information on federal funding for programs serving disabled persons, legislation affecting the handicapped, and federal programs in this area. It also provides referrals to appropriate sources and services. It publishes a bimonthly newsletter, Programs for the Handicapped.

Contact: Clearinghouse on the Handicapped
Office of Special Education and
Rehabilitative Services
U.S. Department of Education
Switzer Building, Room 3119
Washington, D.C. 20202-3583
(202) 245-0080

THE CLEARINGHOUSE ON ADULT EDUCATION was developed to link the adult education community with existing resources in adult education. It responds to inquiries for information, provides referral services, issues publications, and provides limited technical assistance. This

clearinghouse has a number of publications and fact sheets available, including a Directory of Resources for Adults with Disabilities. Areas of clearinghouse information of particular interest to corrections are competency-based adult education, disabled adults, literacy programs, and the Job Training Partnership Act (JTPA).

Contact: Clearinghouse on Adult Education
U.S. Department of Education
Room 522, Reporters Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202-5515

THE EDUCATIONAL RESOURCES INFORMATION CENTER, usually referred to as ERIC, consists of 16 clearinghouses located across the country. The ERIC system specializes in collecting and disseminating unpublished non-copyrighted materials in various subject areas. ERIC offers monthly reference publications, microfiche, paper copies of materials, and computer searches. Correctional staff can both contribute materials and utilize the ERIC database.

Two of the clearinghouses are of particular interest to corrections, the ERIC Clearinghouse on Adult, Career, and Vocational Education and the ERIC Clearinghouse for Special Education. The latter contains information on handicapped adjudicated youth and young adults up to age 21. There is a small cost for a computer search with references and abstracts mailed within ten days. Requests can be made by telephone or mail.

Contacts: ERIC
The Council for Exceptional Children
1920 Association Drive
Reston, VA 22091
(703) 620-3660

ERIC Clearinghouse on Adult, Career, and
Vocational Education
The Ohio State University
1900 Kenny Road
Columbus, OH 43210-1090
(614) 292-4353
(800) 848-4815 (outside of Ohio)

THE CLEARINGHOUSE FOR DEVELOPMENTALLY DISABLED OFFENDER PROJECTS is a special project funded by the New York State Developmental Disabilities Planning Council that has funded a number of projects investigating issues related to appropriate management and treatment of developmentally disabled persons who come into contact with the legal system. The Clearinghouse's role is to make this and other information available to interested persons in law enforcement, corrections, the judiciary and allied fields. Information is available in the form of training programs, evaluation procedures, screening instruments, assessment tools, and a numerical survey of MR/DD in New York City.

Contact: The Clearinghouse for Developmentally Disabled Offender Projects
Old Main Building 101B
State University of New York
New Paltz, NY 12561
(914) 257-2101

NATIONAL INFORMATION CENTER FOR CHILDREN AND YOUTH WITH HANDICAPS (NICHCY) is a free information service that assists parents, educators, service providers and others in ensuring that all children and youth with disabilities have a better opportunity to reach their fullest potential. NICHCY specializes in educational questions and also makes referrals to other organizations and resources available at the state or national level. NICHCY offers technical assistance to parent and professional groups through workshops, presentations, consultation, publications, coordination and resource sharing. It also offers special education career recruitment materials to encourage persons to prepare for careers in the field and thus ensure future availability of qualified professionals.

Contact: NICHCY
P.O. Box 1492
Washington, D.C. 20013
(703) 893-6061

NATIONAL INFORMATION CENTER FOR SPECIAL EDUCATION MATERIALS is a computerized information retrieval system containing information on commercially available audiovisuals, materials, and equipment for all educational levels of handicapped persons. NICSEM also publishes indexes of special education materials and conducts computer searches. There is a charge for NICSEM publications and searches.

Contact: NICSEM
P.O. Box 40130
Albuquerque, NM 87196

NATIONAL DIFFUSION NETWORK is a federally funded system that makes exemplary programs available for adoption by other programs and agencies, often at a great saving in time, money, and effort. The programs adopted by the NDN have undergone careful scrutiny and evaluation by the Joint Dissemination Review Panel.

Contact: Division of Adult Education Services
U.S. Department of Education
Washington, D.C. 20202
(202) 732-2270

NATIONAL INSTITUTE OF CORRECTIONS (NIC) INFORMATION CENTER functions as the base for information collection and dissemination on correctional programs, policies, practices, and standards. It houses all reports, studies, training, and program materials produced by the NIC, including those

resulting from contract and grant activities such as this Guide project. It also provides referrals to other data and information sources. Correctional professionals nationwide can call or write to receive information and publications.

Contact: NIC Information Center
Suite 130
1790 30th Street
Boulder, CO 80301
(303) 939-8877

THE NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE (NCJRS) was developed to provide accurate information to criminal justice practitioners. A Juvenile Justice Clearinghouse, Justice Statistics Clearinghouse and Dispute Resolution Information Center are housed with NCJRS. All NCJRS components share information and resources so that all criminal and juvenile justice questions are answered. NCJRS is staffed by professional information specialists with either practitioner experience or academic knowledge in their areas of specialization. The speciality areas include: Police, Courts, Corrections, Crime Prevention, Juvenile Justice, Dispute Resolution, Victim Services and Justice Statistics.

NCJRS offers many products and services to individuals interested in criminal and juvenile justice issues. Many of these are free of charge, including research and programmatic documents on microfiche and NIJ Reports. NCJRS provides computer searches of its database at a nominal fee. The search provides an annotated bibliography of up to 400 citations. NCJRS phones are staffed from 8:30 a.m. to 8:00 p.m. EST.

Contact: NCJRS
Box 6000
Rockville, MD 20850

NCJRS.....(800) 851-3420
Justice Statistics
Clearinghouse.....(800) 732-3277
Juvenile Justice
Clearinghouse.....(800) 638-8736

Callers from Maryland, Washington, DC, Northern Virginia, and Alaska should call (301) 251-5500

CONTACT CENTER, INC. provides criminal justice clearinghouse services free of charge to Corrections Compendium subscribers and to others at a nominal fee. Contact Center, Inc. is particularly useful in the areas of literacy programs nationwide which can be accessed for correctional students. The organization also keeps an extensive database on offender assistance organizations in the U.S. and can provide help and advice in terms of linking clients with needed services.

Contact: Contact Center, Inc.
P.O. Box 81826
Lincoln, Nebraska 68501
(402) 464-0602

SPECIAL NET is the largest education-oriented computer-based communication network in the United States. It provides up-to-date information and instant communication 24 hours a day, seven days a week. It provides a number of "Bulletin Boards" that provide information on federal funding, grant and contract opportunities, litigation, employment, assessment, practices, and program evaluation. There is a special bulletin board devoted to special education. Correctional agencies can access Special Net by subscription.

Contact: Special Net
2021 K Street, N.W.
Washington, D.C. 20006
(202) 296-1800

2. National Associations and Organizations

National associations and organizations constitute a great resource that can be readily tapped. Most of those listed below provide any or all of the following: membership, conferences, publications, advocacy, information exchange, professional networking, training, and technical assistance. Many have a number of free publications available, and most provide information at no cost.

Contacts with these associations and organizations can be of great assistance during the planning, development, implementation, evaluation, and improvement stages of correctional programs for the learning disabled and retarded. Although many of the groups listed below focus on children rather than adults with handicapping conditions, many, if not most, of their resources are equally useful to correctional professionals working with that large proportion of inmates who are in their twenties.

THE ASSOCIATION FOR CHILDREN AND ADULTS WITH LEARNING DISABILITIES (ACLD) is a national organization with 50 state affiliates and more than 775 local chapters. Members include parents, professionals from a variety of sectors, and concerned citizens. It promotes research, dissemination, advocacy, legislative assistance, improvement of special education, and establishment of career opportunities. The National Headquarters has a resource center with over 500 publications for sale in addition to a film rental service.

ACLD and its state affiliates work directly with local education agencies in planning and implementing programs for early identification and diagnosis as well as remediation in resource and special classroom situations. Because of the relationship of learning disabilities to school drop-out and delinquency, the Adolescent and Young Adult Committee works

with educators, correctional authorities, and jurists in order to develop comprehensive approaches to education and employment. (A listing of ACLD State Associations is included in this section.)

Contact: ACLD, Inc.
4156 Library Road
Pittsburgh, PA 15234
(412) 341-1515; (412) 341-8077

THE COUNCIL FOR EXCEPTIONAL CHILDREN (CEC) is a nonprofit organization dedicated to quality education for all exceptional children and youth. CEC promotes high certification and licensure standards, transfer of technology, methodology, and curricula. CEC holds an annual conference and publishes Exceptional Children six times annually, and Teaching Exceptional Children quarterly. CEC has over 1,000 field units for local membership. The CEC also houses the ERIC system which contains over 29,000 books, articles and reports. Computer searches and answers to telephone and mail inquiries are available.

CEC has more than a dozen specialized divisions. Each one publishes its own journal and newsletter, produces position papers, and holds specialized workshops for its members. **The Division for Learning Disabilities (DLD)** currently serves a membership of professionals, parents, students, and other individuals concerned with learning disabilities. The goals of the DLD are to promote the education and welfare of persons with learning disabilities through research, training practices, exemplary diagnostic and teaching practices, and the encouragement of interaction among the interdisciplinary groups who impact on the learning disabled. DLD also conducts liaison activities with other LD organizations.

The Division of Mental Retardation (CEC-MR) seeks to advance the following: education and welfare of the mentally retarded, research in the education of the mentally retarded, competency of educators engaged in this field, public understanding of mental retardation, professional growth, research, dissemination of research findings, and legislation needed to help accomplish these goals. The division holds conferences, training institutes, and state conventions for the purpose of developing skills and techniques for delivering services to exceptional children.

Contact: Council for Exceptional Children
(Division for Learning Disabilities)
(Division of Mental Retardation)
1920 Association Drive
Reston, VA 22091
(703) 620-3660

THE ASSOCIATION OF RETARDED CITIZENS OF THE UNITED STATES (ARC) is a nonprofit volunteer organization devoted to providing services to mentally retarded individuals, their families, other organizations, and communities. Services include employment, training, education and independent living. ARC works to achieve increased funding of public services, improve public policy toward mentally retarded individuals, ensure the legal rights of the

mentally retarded, establish advocacy systems, achieve appropriate free public education opportunities, and increase employment opportunities for the mentally retarded. ARC coordinates The National Employment and Training Program which, through a nationwide network of job placement personnel, helps mentally retarded individuals obtain competitive employment.

ARC has a chapter in every state. While the state ARC's have not been very active in corrections to date, this seems to be due mostly to the lack of initiative on the part of correctional personnel. As part of the research conducted to prepare this Guide, every state ARC was contacted. Cumulatively, they expressed willingness and interest in assisting corrections in the following areas: provision of materials, providing training for staff, information about legal rights of the mentally retarded, lobbying for resources, advocacy, program monitoring, legal guardianship, assistance in drafting policy statements, and job training/placement (under contract). (A listing of ARC's is included in this section.

Contact: The Association for Retarded Citizens
National Headquarters
2501 Avenue J
Arlington, TX 76006
(817) 640-0204

THE AMERICAN ASSOCIATION ON MENTAL RETARDATION (AAMR) is a nonprofit professional association devoted to improving the general welfare of people with mental retardation. It includes all disciplines and levels of mental retardation workers in a multidisciplinary forum, distributes the latest program and research information, and sponsors conferences on the national, regional, and local levels. The AAMR publishes two journals, American Journal of Mental Retardation and Mental Retardation.

AAMR has issued a statement on MR offenders as part of its "Legal and Societal Goals" (1987). Representatives of the AAMR may serve in the role of amicus curiae at any level of litigation deemed appropriate in a particular case.

This association is responsible for the dissemination of the AAMR Adaptive Behavior Scale for Children and Adults, commonly used in corrections. This instrument is a rating scale for mentally retarded and emotionally maladjusted individuals that measures coping skills in the areas of adaptive skills and habits and maladaptive behaviors. The Scale can be administered by professionals or paraprofessionals and is used for assessment, placement, and Individual Habilitation Plan (IHP) development. AAMR has also issued professional standards for the care and treatment of mentally retarded persons.

Contact: American Association on Mental Retardation
1719 Kalorama Road, N.W.
Washington, D.C. 20009
(202) 387-1968

THE FOUNDATION FOR CHILDREN WITH LEARNING DISABILITIES (FCLD) is a national, publicly supported organization devoted to increasing public awareness of learning disabilities and to raising and allocating funds to support model programs. FCLD is committed to public awareness for the Judiciary about the link between undetected learning disabilities and juvenile delinquency. FCLD has funded training of attorneys interested in representing learning disabled children and their parents and generally encourages lawyer awareness regarding the problems of children with learning disabilities. Through this effort, a network has been established among attorneys and juvenile and family court judges. FCLD publishes a journal called Their World.

Contact: Foundation for Children with Learning Disabilities
99 Park Ave., 6th floor
New York, NY 10016
(212) 687-7211

THE CORRECTIONAL EDUCATION ASSOCIATION (CEA) is the professional association for teachers and administrators working in all areas of corrections. CEA is an affiliate of the American Correctional Association (ACA). CEA provides information on programming, services, and resources for juvenile and adult offenders and assists in networking among correctional educators. CEA also provides legislative advocacy and information sharing. CEA publishes annually the Yearbook of Correctional Education, and quarterly both the Journal of Correctional Education and a national newsletter, which focus on issues such as special education programs, materials, resources, and legislation impacting on correctional education. CEA has eight regional affiliates and a number of state chapters which sponsor conferences and workshops. CEA also sponsors a national correctional education conference annually. CEA has developed and published standards for correctional education programming and professional preparation.

Contact: Correctional Education Association
8025 Laurel Lakes Court
Laurel, MD 20707
(301) 206-5100

THE AMERICAN BAR ASSOCIATION (ABA) is the professional association of the legal profession. ABA has been active in the area of mental disability through its Commission on the Mentally Disabled. There are ABA standards related to this area. Furthermore, the ABA publishes The Mental Disability Law Reporter, which provides current information on case law developments, legislative and regulatory developments, and analysis. It is available from the ABA by subscription. The ABA has also published a Directory of Legal Advocates, which provides a comprehensive listing of legal advocates in the mental and developmental disabilities fields. It contains listings for state and local bar association projects, national organizations, institutional advocacy projects, developmental disability protection and advocacy agencies, private attorneys, law clinics and public interest

programs, and legal services projects. The Directory is available from the ABA.

Contact: ABA
Order Fulfillment Office
750 N. Lake Shore Drive
Chicago, IL 60611
(312) 988-5555

3. State and State Affiliated Agencies

STATE DEPARTMENTS OF EDUCATION (SEA's) are the key access point for local education agencies (LEA's) to federal and state flow-through monies. The SEA is charged by P.L. 94-142 with a number of tasks which can be of assistance to correctional agencies. These include the annual child find, program monitoring, evaluation of personnel and personnel training needs, technical assistance, and due process matters. In addition, SEA's offer a range of resources as well as specific training opportunities. SEA's provide standards for teacher certification and curricula. SEA's can also be useful in providing linkages with community-based organizations providing a range of services to handicapped learners, from related services to transition assistance. For detailed information regarding assistance available as well as the legal obligations of correctional agencies in terms of learning disabled and mentally retarded inmates, contact the office of the Director of Special Education. (A listing of state Special Education Offices is included in this section, as well as a listing of State Directors of Correctional Education.)

STATE VOCATIONAL REHABILITATION AGENCIES (DVR's) are authorized under Public Law 93-112, as amended, and are administered through the SEA Division of Vocational Rehabilitation. This division administers a state-federal program authorized by P.L. 93-112 to assist disabled individuals (including the learning disabled and mentally retarded) to become employable and gain jobs. These funds can be used for functional assessment of eligible individuals and vocational training. (For further information contact the SEA.)

REGIONAL RESOURCE CENTERS are provided for through Public Law 94-142, which states that "the Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, institutions of higher education, private nonprofit organizations, State educational agencies, or combinations of such agencies and institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of establishment and operation of regional resource centers. Each regional resource center shall provide consultation, technical assistance, and training to State educational agencies and through such State agencies to local educational agencies." These centers can be of great assistance to correctional agencies to identify and solve problems in special education and related service provision, replicate model programs to improve special education

and related services, disseminate information, and improve training for professionals. These resource centers have produced a number of manuals, directories, and other materials of potential use to correctional staff. Correctional agencies should contact the State Department of Education for information concerning the Regional Resource Center serving their particular state.

STATE MENTAL HEALTH/MENTAL RETARDATION AGENCIES (SMH/MR's) can be major partners with correctional agencies in serving the needs of mentally retarded/developmentally disabled offenders. They can provide funding, direct program services, technical assistance, training, and referrals. Our research revealed that many states have formal interagency agreements between the DOC and the SMH/MR agency. These agencies have participated in interagency task forces to study and gauge the problems of the MR/DD offender; developed programs and other initiatives; offered consultations; assisted DOC's in placing clients in sheltered workshops and community-based programs; and provided legal assistance to place criminal justice clients in the most appropriate facility (i.e., a correctional facility, mental health facility, or community-based program). Individual case management can also be provided through the SMH/MR agency. (A listing of these agencies is included in this section.)

STATE DEVELOPMENTAL DISABILITIES PLANNING COUNCILS (DDPC's) are mandated by Public Law 98-527, the Developmental Disabilities Act of 1984. They are charged under law with the responsibilities to develop a state plan for serving the DD population jointly with State Departments for Mental Health and Retardation Services, to include specification of priorities. DDPC's are further responsible for monitoring, reviewing, and evaluating the implementation of such plans on an annual basis and submitting an annual report to the Governor. The DDPC is the planning agent, whereas the Mental Health/Mental Retardation agency is the administrative agent.

Our research revealed that some DDPC's have a representative from corrections serving on the Council. Many states have correctional goals and priorities written into their annual and long range plans. Many have funded activities for DD offenders, including projects providing direct services, training of criminal justice personnel, research, and the preparation and publication of training manuals and videotapes. Several have funded legal aid projects. (A listing of State Developmental Disabilities Councils is included in this section.)

STATE PROTECTION AND ADVOCACY AGENCIES (P&A's) are provided for by Public Law 94-103, as amended, the Developmental Disabilities Act. Each state is obliged to designate an independent agency with authority to pursue legal, administrative, and other appropriate remedies to insure the rights of persons with developmental disabilities. P&A's commonly provide a variety of services, including casework, informational materials, referrals, legal guardianship, individual and systems advocacy, training, and technical assistance.

As indicated earlier in this Guide, many P&A's have been very active in corrections, serving both MR and LD offenders who fall under their general mandate. These agencies often play an active role in legal proceedings involving developmentally disabled offenders. Their staff may assist attorneys in seeking community placement; monitor services; act as liaisons; train personnel; represent juvenile offenders; represent offenders at parole hearings; make periodic visits to prisons; and disseminate information on facilities, treatment, and training programs. (A listing of all P&A's is included in this section.)

UNIVERSITY AFFILIATED FACILITIES (UAF's) are established and provided administrative support through P.L. 98-527, the Developmental Disabilities Act, as amended. There are currently some forty UAF's serving the developmentally disabled population across the country. The UAF's have four primary goals: (1) to train administrative, professional, technical direct care, and other specialized personnel working with DD clients; (2) to demonstrate a full range of exemplary services which should be available to and needed by this population; (3) to conduct DD research; and, (4) to assist regions, states, and local communities to serve the DD population and to integrate them into the general stream of life. Our research revealed that several UAF's have provided services to correctional agencies, e.g., training, research, assessment manuals and procedures, and technical assistance. (A listing of UAF's is included in this section.)

Association for Children and Adults with Learning Disabilities (ACLD)
State Offices

Alabama ACLD
P.O. Box 11588
Montgomery, AL 36111

Arizona ACLD
P.O. Box 15525
Phoenix, AZ 85749

Arkansas ACLD
P.O. Box 7316
Little Rock, AR 72217

CANHI/ACLD
P.O. Box 61067
Sacramento, CA 95860

ACLD of Connecticut
139 N. Main Street
Boatner Building
W. Hartford, CT 06107

D.C. ACLD
P.O. Box 6350
Washington, DC 20015

Florida ACLD
210 Belaire Court
Punta Gorda, FL 33950

Georgia ACLD
P.O. Box 29492
Atlanta, GA 30359

Hawaii ACLD
300 N. Vineyard Blvd.
Suite 402
Honolulu, HI 96817

Illinois ACLD
P.O. Box A-3239
Chicago, IL 60690

Iowa ACLD
2617 N. 15th Place
Fort Dodge, IA 50501

Kansas ACLD
P.O. Box 4424
Topeka, KS 66604

Maine ACLD
P.O. Box 394
Topsham, ME 04086

Massachusetts ACLD
Field School (Rm 23)
99 School Street
Weston, MA 02193

Michigan ACLD
20777 Randall
Farmington Hills, MI
48024

Minnesota ACLD
1821 University Avenue
Room 494-N
St. Paul, MN 55104

Mississippi ACLD
P.O. Box 9387
Jackson, MS 39206

Missouri ACLD
P.O. Box 3303
2740 S. Glenstone
Springfield, MO 65808

New Jersey ACLD
284 East Main Street
Oceanport, NJ 07757

New York ACLD
155 Washington Avenue
3rd Floor
Albany, NY 12210

North Dakota ACLD
7 East Central #202
Minot, ND 58701

Ohio ACLD
Suite 308
2800 Euclid Avenue
Cleveland, OH 44115

Oklahoma ACLD
3701 N.W. 62nd Street
Oklahoma City, OK
73112

Pennsylvania ACLD
Suite 2 & 3
Toomey Building
Eagle, Box 208
Uwchland, PA 19480

Tennessee ACLD
P.O. Box 281028
Memphis, TN 38128

Texas ACLD
1011 W. 31st Street
Austin, TX 78705

Vermont ACLD
9 Heaton Street
Montpelier, VT 05602

Washington ACLD
Suite 100
17530 NE Union Hill Rd
Redmond, WA 98052

Note: States not listed have no permanent address other than that of the current president. A list of state ACLD presidents can be obtained through the national ACLD office:

4156 Library Road
Pittsburgh, PA 15234
412/341-1515
412/341-8077

Association for Retarded Citizens (ARC)

ARC/Alabama
4301 Norman Bridge Road
Montgomery, AL 36105
(205)288-9434

ARC/Arizona
5610 Central
Phoenix, AZ 85040
(602)243-1787

ARC/Arkansas
6115 West Markham, Room 107
Little Rock, AR 72210
(501)661-9992

ARC/California
1510 J Street, Suite 180
Sacramento, CA 95814
(916)441-3322

ARC/Colorado
Capitol Life Center, Suite 750
1600 Sherman Street
Denver, CO 80203-1661
(303)832-2722

ARC/Connecticut
15 High Street
Hartford, CT 06103
(203)522-1179

ARC/Delaware
P.O. Box 1896
Lewes, DE 19899
(302)832-2722

ARC/District of Columbia
900 Varnum Street, N.E.
Washington, DC 20017
(202)636-2950

ARC/Florida
106 N. Bronough St., Ste. MI-7
Tallahassee, FL 32301
(904)681-1931

ARC/Georgia
1851 Ram Runway, Suite 104
College Park, GA 30337
(404)761-3150

ARC/Hawaii
245 North Kukui Street
Honolulu, HI 96817
(808)536-2274

ARC/Illinois
Printer's Square
600 South Federal, Suite 704
Chicago, IL 60605
(312)922-6932

ARC/Indiana
110 East Washington, 9th Floor
Indianapolis, IN 46204
(317)632-4387

ARC/Iowa
715 East Locust
Des Moines, IA 50309
(515)283-2358

ARC/Kansas
11111 West 59th Terrace
Shawnee, KS 66203
(913)268-8200

ARC/Kentucky
833 East Main
Frankfort, KY 40601
(502)875-5225

ARC/Louisiana
658 St. Louis Street
Baton Rouge, LA 70802
(504)383-0742

ARC/Maryland
Suite 200
5602 Baltimore National Pike
Baltimore, MD 21228
(301)744-0255

ARC/Massachusetts
217 South Street
Waltham, MA 02154
(617)891-6270

ARC/Michigan
313 S. Washington, Suite 310
Lansing, MI 48933
(517)487-5426

ARC/Minnesota
3225 Lyndale Avenue South
Minneapolis, MN 55408
(612)891-6270

ARC/Mississippi
Woodland Hills Building
3000 Old Canon Road, Suite 275
Jackson, MS 39216
(601)362-4830

ARC/Nebraska
502 Executive Building
521 South 14th
Lincoln, NE 68508
(402)475-4407

ARC/Nevada
680 S. Bailey
Fallon, NV 89406
(702)423-4760

ARC/New Hampshire
10 Ferry Street
The Concord Center
Concord, NH 03301
(603)228-9092

ARC/New Jersey
985 Livingston Avenue
New Brunswick, NJ 08902
(201)246-2525

ARC/New Mexico
8210 La Mirada NE, Suite 500
Albuquerque, NM 87109
(505)298-6796

ARC/North Carolina
P.O. Box 18511
Raleigh, NC 27619
(919)782-4632

ARC/North Dakota
417 1/2 East Broadway, #9
Bismarck, ND 58501
(701)223-5349

ARC/Ohio
360 South Third St., Suite 101
Columbus, OH 43215
(614)228-4412

ARC/Oregon
1745 State Street
Salem, OR 97301
(503)581-2726

ARC/Pennsylvania
123 Forster Place
Harrisburg, PA 17102
(717)234-2621

ARC/Rhode Island
Craik Building
2845 Post Road
Warwick, RI 02886
(401)738-5550

ARC/South Carolina
7412 Fairfield Road
Columbia, SC 29203
(803)754-4763

ARC/South Dakota
P.O. Box 502
Pierre, SD 57501
(605)224-8211

ARC/Tennessee
1700 Hayes, Suite 201
Nashville, TN 37202
(615)327-0294

ARC/Texas
833 Houston
Austin, TX 78756
(512)454-6694

ARC/Utah
455 East 400 South, Suite 300
Salt Lake City, UT 84111
(801)364-5060

ARC/Virginia
3602 Albee Lane, Apt. 202
Alexandria, VA 23209
(703)780-6799

ARC/Washington
5523 NE Chateau Drive
Vancouver, WA 98661
(206)694-1284

ARC/West Virginia
Suite 400, Union Trust Bldg.
700 Market Street
Parkersburg, WV 26101
(304)485-5283

ARC/Wisconsin
5522 University Avenue
Madison, WI 53705
(608)231-3335

ARC/Wyoming
P.O. Box 1205
Cheyenne, WY 82001
(307)632-7105

Directors of State Mental Retardation Agencies

Associate Commissioner Mental Retardation
Department of Mental Health
200 Interstate Park Drive
P.O. Box 3710
Montgomery, AL 36193
(205)271-1271

Program Administrator
Division of Mental Health and Developmental Disabilities
Department of Health and Social Services
Pouch H-04
Juneau, AK 99811
(907)465-3372

Assistant Director
Division of Developmental Disabilities
Department of Economic Security
P.O. Box 6760
Phoenix, AZ 85005
(602)255-5775

Commissioner
Developmental Disabilities Services
Suite 400, Waldon Building
7th and Main
Little Rock, AR 72201
(501)371-3419

Director
Department of Developmental Services
Health and Welfare Agency
1600 9th St., N.W. 2nd Floor
Sacramento, CA 95814
(916)323-3131

Division Director
Division for Developmental Disabilities
3824 West Princeton Circle
Denver, CO 80236
(303)762-4550

Commissioner
Department of Mental Retardation
90 Pitkin Street
East Hartford, CT 06108
(203)528-7141

Director
Division of Mental Retardation
Robbins Building
802 Silver Lake Boulevard
Dover, DE 19901
(302)736-4386

Administrator
Department of Human Services
Developmental Disabilities Administration
409 O Street, N.W.
Washington, DC 20001
(202)673-7678

Director
Developmental Services Program
Department of Health and Rehabilitation Services
1317 Winewood Boulevard
Tallahassee, FL 32301
904)488-4257

Deputy Director
Mental Retardation Services
Department of Human Resources
878 Peachtree Street, N.E.
Atlanta, GA 30309
(404)894-6313

Community Services for the Developmentally Disabled
741 A Sunset Avenue
Honolulu, HI 96816
(808)732-0935

Chief
Bureau of Adult and Child Development
Department of Health & Welfare
450 W. State, 19th Floor
Boise, ID 83720
(208)334-4181

Deputy Director for
Developmental Disabilities
Department of Mental Health and
Developmental Disabilities
402 Stratton Office Building
Springfield, IL 62706
(217)782-7395

Director
Division of Developmental
Disabilities
Department of Mental Health
117 East Washington Street
Indianapolis, IN 46204-3647
(317)232-7836

Director
Division of Mental Health
Resources
Department of Social Services
Hoover State Office Building
Des Moines, IA 50319
(515)281-6003

Special Assistant to
Commissioner
Department of Social and
Rehabilitative Services
State Office Building, 5th Fl.
Topeka, KS 66612
(913)296-3471

Director
Division of Mental Retardation
Department for Mental Health
and Retardation Services
275 East Main
Frankfort, KY 40621
(502)564-7700

Assistant Secretary
Office of Mental Retardation
Department of Health and Human
Resources
721 Government Street, Rm 308
Baton Rouge, LA 70802
(504)342-6811

Associate Commissioner for
Programs
Department of Mental Health and
Retardation
411 State Office Building
Station 40
Augusta, ME 04333
(207)289-4220

Director
Developmental Disabilities
Administration
201 W. Preston Street
4th Floor, O'Connor Building
Baltimore, MD 21201
(301)225-5600

Assistant Commissioner Mental
Retardation
Division of Mental Retardation
Department of Mental Health
160 N. Washington Street
Boston, MA 02114
(617)727-5608

Deputy Director
Department of Health
Bureau of Program Policy,
Standards and Training
6th Floor, Lewis Cass Building
Lansing, MI 48926
(517)373-2900

Director
Division of Retardation
Services
Department of Public Welfare
Centennial Office Bldg. 5th Fl
St. Paul, MN 55155
(612)297-1241

Director
Bureau of Mental Retardation
Department of Mental Health
1500 Woolfolk Building
Jackson, MS 39201
(601)359-1290

Director
Division of Mental Retardation and Developmental Disabilities
Department of Mental Health
2002 Missouri Blvd, PO Box 687
Jefferson City, MO 65102
(314)751-4054

Administrator
Division of Developmental Disabilities
P.O. Box 4210
111 Sanders, Room 202
Helena, MT 59604
(406)444-2995

Director
Office of Mental Retardation
Department of Public Institutions
P.O. Box 94728
Lincoln, NE 68509
(402)471-2851 Ext. 5110

Acting Administrator
Mental Hygiene
MR Division, Gilbert Building
1001 N. Mountain St., Ste. 1-H
Carson City, NV 89710
(702)885-5943

Assistant Division Director
Division of Mental Health and Developmental Services
Health and Welfare Building
Hazen Drive
Concord, NH 03301
(603)271-4706

Director
Developmental Disabilities Division
222 South Warren Street
Capital Place One
Trenton, NJ 08625
(609)292-3742

Chief
Developmental Disabilities Bureau
Department of Health and Environment
P.O. Box 968
Santa Fe, NM 87503-0968
(505)827-0020 Ext. 2578

Commissioner
Office of Mental Retardation & Developmental Disabilities
44 Holland Avenue
Albany, NY 12229
(518)473-1997

Director, Mental Retardation
Division of Mental Health/ Mental Retardation Services
Albemarle Building
315 N. Salisbury Street
Raleigh, NC 27611
(919)733-3654

Director
Developmental Disabilities Division
Department of Human Services
State Capitol Building
Bismarck, ND 58505
(701)224-2768

Director
Department of Mental Retardation and Developmental Disabilities
State Office Tower, Rm. 1284
30 E. Broad Street
Columbus, OH 43215
(614)466-5214

Assistant Director
Developmental Disabilities Services
Department of Human Services
P.O. Box 25325
Oklahoma City, OK 73125
(405)521-3571

Assistant Administrator
Program for Mental Retardation
& Developmental Disabilities
Department of Human Resources
2575 Bittern Street, N.W.
Salem, OR 97310
(503)378-2429

Deputy Secretary for Mental
Retardation
Department of Public Welfare
Room 302
Health and Welfare Building
Harrisburg, PA 17120
(717)787-3700

Associate Director
Division of Retardation
Aime J. Forand Building
600 New London Avenue
Cranston, RI 02920

Commissioner
Department of Mental
Retardation
2712 Middleburg Drive
P.O. Box 4706
Columbia, SC 29240
(803)758-3671

Program Administrator
Office of Developmental
Disabilities
Department of Social Services
Kneip Building
Pierre, SD 57501
(605)773-3438

Assistant Commissioner for
Mental Retardation
Department of Mental Health and
Mental Retardation
James K. Polk State Office Bldg
505 Deaderick Street
Nashville, TN 37219
(615)741-3803

Deputy Commissioner, Mental
Retardation Services
Department of Mental Health &
Mental Retardation
Box 12668, Capitol Station
Austin, TX 78711
(512)465-4520

Director
Division of Services to
Handicapped
150 W. N. Temple, Suite 234
P.O. Box 45500
Salt Lake City, UT 84145
(801)533-7146

Director
Division of Mental Retardation
Programs
Department of Mental Health
103 S. Main Street
Waterbury, VT 05676
(802)241-2636

Commissioner
Department of Mental Health &
Mental Retardation
P.O. Box 1797
Richmond, VA 23214
(804)786-3921

Director
Developmental Disabilities
Division
Department of Social & Health
Service
P.O. Box 1788, OB-42C
Olympia, WA 98504
(206)753-3900

Director, Developmental
Disabilities Services
Division of Behavioral Health
Department of Health
1800 Washington Street, East
Charleston, WV 25305
(304)348-9627

Director, Developmental
Disabilities Office
Bureau of Community Services
Department of Health & Social
Services
P.O. Box 7851
Madison, WI 53707
(608)266-2862

Administrator
Division of Community Programs
355 Hathaway Building
Cheyenne, WY 82002-0170
(307)777-6488

Developmental Disabilities (DD) Planning Councils

Alabama DD Planning Council
200 InterState Park Drive
P.O. Box 3710
Montgomery, AL 36193-5001
(205)271-9278

DD Planning Council
Suite C
600 University Avenue
Fairbanks, AK 99701
(907)479-6507

Governor's Council on DD
MS 074Z
1717 West Jefferson Street
Phoenix, AZ 85007
(602)255-4040

Governor's DD Planning Council
Health Planning and
Development Agency
4815 West Markham Street
Little Rock, AR 72201
(501)661-2589

State Council on DD
1507 21st Street, Room 320
Sacramento, CA 95816
(916)762-4448

Colorado DD Council
4126 South Knox Court
Denver, CO 80236
(303)762-4448

Planning Council on DD
Department of Mental
Retardation
90 Pitkin Street
East Hartford, CT 06108
(203)725-3829

DD Planning Council
Priscilla Building, Box 1401
156 South State Street
Dover, DE 19901
(302)736-4456

DC State Planning Council
Randall School, Room 224
1st and I Streets, S.W.
Washington, DC 20024
(202)727-5930

Florida DD Planning Council
Building 1, Room 309
1317 Winewood Boulevard
Tallahassee, FL 32301
(904)488-4180

Georgia Council on DD
Room 620
878 Peachtree Street, N.E.
Atlanta, GA 30308
(404)894-5790

State Planning Council for DD
P.O. Box 3378
Honolulu, HI 96801
(808)548-5994

State Planning Council on DD
450 West State Street
Boise, ID 83720
(208)334-4408

Illinois DD Planning Council
840 South Spring Street
Springfield, IL 62706
(217)782-9696

Governor's Planning Council
on Developmental Disabilities
117 E. Washington Street
Indianapolis, IN 46204
(317)232-7820

Governor's Planning Council for
Developmental Disabilities
Department of Human Services
Hoover State Office Building
5th Floor
Des Moines, IA 50319
(515)281-5646

Planning Council on DD Service
Department of Social and
Rehabilitative Service
State Office Bldg., 5th Fl N
Topeka, KS 66612
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Kentucky DD Planning Council
Department for Health Services
275 East Main Street
Frankfort, KY 40601
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State Planning Council on DD
P.O. Box 44215
72 Government Street, Rm. 202
Baton Rouge, LA 70802
(504)342-6804

Planning & Advisory Council on
Developmental Disabilities
Department of Mental Health and
Mental Retardation
State Office Bldg., Station 40
Augusta, ME 04333
(207)289-3161

State Planning Council on DD
201 West Preston Street
Baltimore, MD 21201
(301)225-5077

Massachusetts DD Council
Room 1319
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Boston, MA 02108
(617)727-6374

Michigan DD Council
6th Floor
Lewis-Cass Building
Lansing, MI 48926
(517)373-0311

Governor's Planning Council for
Developmental Disabilities
201 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
(612)296-4018

State DD Planning Council
Department of Mental Health
1102 Robert E. Lee Building
Jackson, MS 39201
(601)359-1290

Missouri Planning Council - DD
Department of Mental Health
2002 Missouri Boulevard
Jefferson City, MO 65102
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Governor's Planning Council on
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DD Planning Council
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Helena, MT 59601
(401)464-3191

Nevada Planning Council for DD
Department of Human Resources
505 E. King Street, Room 502
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(702)885-4440

New Hampshire Council on DD
Division of Mental Health
9 S Spring Street, Suite 204
Concord, NH 03301
(603)271-3236

DD Council State of New Jersey
108-110 North Broad St. CN 700
Trenton, NJ 08625
(609)292-3745

New Mexico State DD Planning
Council
440B Cerrillos Road
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Santa Fe, NM 87503
(505)827-7371

NY State DD Planning Council
10th Floor
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Albany, NY 12223
(518)474-3655

North Carolina Council on DD
325 North Salisbury Street
Albermarle Building, Rm 615
Raleigh, NC 27611
(919)733-6566

DD Council
Department of Human Services
State Capitol
Bismarck, ND 58505
(701)224-2970

DD Program
DD Planning Council
State Office Building
30 East Broad St., Room 1280
Columbus, OH 43215
(614)466-7203

Division of Planning and
Research Development
P.O. Box 25352
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Oregon DD Planning Council
MR/DD Program Office
2575 Bittern Street, N.E.
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(503)378-2429

DD Planning Council
Room 569 Forum Building
Commonwealth Avenue
Harrisburg, PA 17120
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DD Council
600 New London Avenue
Cranston, RI 02920
(401)464-3191

DD Planning Council
Edgar Brown Building, Rm 404
1205 Pendleton Street
Columbia, SC 29201
(803)734-0465

Office of DD, Department of
Social Services
Richard F. Kneip Building
700 North Illinois Street
Pierre, SD 57501
(605)773-3438

DD Planning Council
4th Floor James K. Polk Bldg.
505 Deaderick Street
Nashville, TN 37219-5393
(615)741-1742

Texas Planning Council for DD
118 East Riverside Drive
Austin, TX 78704
(512)445-8867

Utah Council for Handicapped
and DD Persons
P.O. Box 11356
Salt Lake City, UT 84147
(801)533-6770

Vermont DD Council
Waterbury Office Complex
103 South Main Street
Waterbury, VT 05676
(802)241-2612

Board of Rights of the Disabled
Room 1308A
James Madison Building
Richmond, VA 23214
(804)225-2042

DD Planning Council
9th & Columbia Bldg. MS-GH-52
Olympia, WA 98504
(206)753-3908

DD Planning Council
c/o Department of Health
State Capitol
Charleston, WV 25305
(304)348-2276

Council on DD
State of Wisconsin
P.O. Box 7851
Room 344
Madison, WI 53707-7851
(608)266-7826

Council on DD
P.O. Box 265
Cheyenne, WY 82003-1205
(307)632-0775

State Protection and Advocacy (P&A) Agencies

Program Director
Alabama Developmentally
Disabled Advocacy Program
The University of Alabama
P.O. Drawer 2847
Tuscaloosa, AL 35487-2847
(205)348-4928

Director
Protection & Advocacy for the
Developmentally Disabled Inc.
325 E. 3rd Avenue, 2nd Fl.
Anchorage, AK 99501
(907)274-3658

Director, P&A
Arizona Center for Law in the
Public Interest
112 N Central Ave. Suite 400
Phoenix, AZ 85004
(602)252-4904

Executive Director
Advocacy Services, Inc.
12th & Marshall Sts. Ste. 504
Little Rock, AR 72202
(501)371-2171

Executive Director
California Protection and
Advocacy, Inc.
2131 Capitol Avenue
Sacramento, CA 95816
(916)447-3331

Executive Director
The Legal Center
455 Sherman Street, Suite 130
Denver, CO 80203
(303)722-0300

Executive Director
Office of P&A for Handicapped
and Developmentally Disabled
Persons
90 Washington St., Lower Level
Hartford, CT 06106
(203)566-7616

Administrator
Disabilities Law Program
144 E. Market Street
Georgetown, DE 19947
(302)856-0038

Executive Director
Information Center for
Handicapped Individuals
605 G Street, N.W.
Washington, DC 20001
(202)347-4986

Executive Director
Governor's Commission on
Advocacy for Persons with
Disabilities
Office of the Governor, Capitol
Tallahassee, FL 32301
(904)488-9070

Executive Director
Georgia Advocacy Office, Inc.
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Atlanta, GA 30309
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Executive Director
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Suite 860
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Director
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for the Disabled, Inc.
1409 W. Washington
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(208)336-5353

Director
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175 W. Jackson
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850 N. Meridan St., Ste. 2-C
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Executive Director
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Manhattan, KS 66502
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Division for P&A
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Frankfort, KY 40601
(502)564-2967

Executive Director
Advocacy Center for the
Elderly and Disabled
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New Orleans, LA 70113
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Director
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Developmentally Disabled
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Augusta, ME 04330
(207)289-5755

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313 S. Washington Sq., Lower L
Lansing, MI 48933
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323 Fourth Avenue, South
Minneapolis, MN 55415
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Mississippi P&A System for
Developmentally Disabled
Suite 101
4750 McWillie Drive
Jackson, MS 39206
(601)981-8207

Director
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211 B Metro Drive
Jefferson City, MO 65101
(314)893-3333

Executive Director
Developmentally Disabled/
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1219 East 8th Avenue
Helena, MT 59601
(406)444-3889

Executive Director
Nebraska Advocacy Service for
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522 Lincoln Center Building
215 Centennial Mall So. Rm 422
Lincoln, NE 68508
(402)474-3183

Project Director
Developmentally Disabled
Advocate's Office
Suite B
2105 Capurro Way
Sparks, NV 89431
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Director
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Advocacy Center, Inc.
6 White Street
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(603)228-0432

Director
New Jersey Department of Public
Advocate
Office of Advocacy for the
Developmentally Disabled
Hughes Justice Complex CN 850
Trenton, NJ 08625
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Building 4, Suite 140
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99 Washington Avenue
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Director
Governor's Advocacy Council
for Persons with Disabilities
1318 Dale Street, Suite 100
Raleigh, NC 27605
(919)733-9250

Director
P&A Project for the
Developmentally Disabled
Council on Human Resources
13th Floor, State Capitol
Bismarck, ND 58505

Executive Director
Ohio Legal Rights Service
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8 East Long Street
Columbus, OH 43215
(614)466-7264

Director
P&A Agency for
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Osage Building, Room 133
9726 East 42nd
Tulsa, OK 74126
(918)664-5883

Executive Director
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Advocacy Center
400 Board of Trade Building
310 Southwest 4th Avenue
Portland, OR 97204
(503)243-2081

Executive Director
Protection & Advocacy, Inc.
3540 N. Progress Avenue
Harrisburg, PA 17110
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686 Weybosset Street, Ste. 508
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South Carolina P&A System for
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2360-A Two-Notch Road
Columbia, SC 29204
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Director
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Nashville, TN 37212
(615)298-1080

Executive Director
Advocacy, Inc.
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7700 Chevy Chase Drive
Austin, TX 78752
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Executive Director
Legal Center for the
Handicapped
455 East 400 South, Ste. 201
Salt Lake City, UT 84111
(801)363-1347

Director
Vermont Developmentally
Disabled P&A, Inc.
12 North Street
Burlington, VT 05401
(802)863-2881

Director
Department of Rights for
Disabled
James Monroe Building
101 North 14th Street, 17th Fl
Richmond, VA 23219
(804)225-2042

Executive Director
The Troubleshooters Office
Suite 204
1550 West Armory Way
Seattle, WA 98119
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Executive Director
West Virginia Advocates for the
Developmentally Disabled Inc.
1200 Brooks Medical Building
Quarrier Street, Suite 27
Charleston, WV 25301
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Executive Director
Wisconsin Coalition for
Advocacy, Inc.
30 W. Mifflin, Suite 508
Madison, WI 53703
(608)251-9600

Executive Director
Developmentally Disabled P&A
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2424 Pioneer Avenue, #101
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State Directors of Correctional Education

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Director of Statewide Programs
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Education Program Specialist**
Department of Corrections
201 N. Stone Ave., Suite 211
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(602)628-5945

Superintendent of Education Services
Department of Corrections School District
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Chief of Education
Department of Corrections
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Chief*
I & C Branch
Division of Educational Services
Department of Youth Authority
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Director of Programs
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Colorado Springs, CO 80906
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Director, Educational Services*
Division of Youth Services
4255 S. Knox Court
Denver, CO 80236
(303)762-2298

Director of Education
Unified School District #1
Department of Correction
340 Capitol Avenue
Hartford, CT 06106
(203)566-5517

Chief
Industries and Services
Department of Correction
80 Monrovia Avenue
Smyrna, DE 19977
(302)736-5601

Supervisor*
Instructional Programs*
Department of Services for Children, Youth, and Families
824 Market St. 7th Floor
Wilmington, DE 19801
(302)571-6407

Assistant Director
Educational Services
DC Department of Corrections
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Lorton, VA 22079
(703)643-2355

Director
Education Services
Department of Corrections
1311 Winewood Boulevard
Tallahassee, FL 32301
(904)487-2270

[1] State offices for adult correctional education unless noted: * = juvenile only; ** = both.

Program Supervisor*
Department of Health and
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1317 Winewood Boulevard
Tallahassee, FL 32301
(904)488-1850

Director, Educational Services
Department of Corrections
Floyd Building 6th Fl. E.
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2 Martin Luther King Jr. Dr SE
Atlanta, GA 30334
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Corrections Division**
DSSH
2199 Kamehameha Highway
Honolulu, HI 96819
(808)847-4491

Administrator of Education
Department of Corrections
Box 14
Boise, ID 83707
(208)336-0740 Ext. 5261

Administrative Director*
Youth Services Center
Department of Health and
Welfare
P.O. Box 40
Boise, ID 83445
(208)624-3462

Superintendent**
Department of Corrections
School District 428
Administration Building
1301 Concordia Court
Springfield, IL 62702
(217)522-2666

Supervisor of Education**
Department of Correction
804 State Office Building
100 North Senate Avenue
Indianapolis, IN 46204
(317)232-5768

Deputy Director
Department of Corrections
250 Jewett Building
10th and Grand
Des Moines, IA 50309
(515)281-6809

Director of Education
Department of Corrections
Landon State Office Building
900 Jackson Street
Topeka, KS 66612
(913)296-4493

Administrator*
Educational Programs
5th Floor N.
State Office Building
Topeka, KS 66612
(913)296-3474

Administrator
Education Program
Corrections Cabinet
State Office Building 5th Floor
Frankfort, KY 40601
(502)564-2220

Education Director*
Cabinet for Human Resources
Department of Social Services
275 E. Main St. 6th Floor West
Frankfort, KY 40621
(502)564-2738

Director
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P.O. Box 725
New Roads, LA 70760
(504)342-3530

Director**
Correction Program
State House Station #111
Augusta, ME 04333
(207)289-2711

Director, Correction Education
Department of Education
200 West Baltimore Street
Baltimore, MD 21201
(301)659-2059

Director of Education
Department of Corrections
100 Cambridge Street
Boston, MA 02202
(617)727-9170

Director of Education*
Department of Youth Services
3rd Floor
150 Causeway Street
Boston, MA 02114
(617)727-7575

Director of Education
Department of Corrections
3222 South Logan Street
Lansing, MI 48913
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Education Coordinator
Department of Corrections
300 Bigelow Building
450 N. Syndicate Street
St. Paul, MN 55104
(612)642-0244

Director of Adult Basic
Education
Department of Corrections
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Parchman, MS 38738
(601)745-6611 Ext. 0175

Director of Education
Department of Corrections and
Human Resources
2729 Plaza Drive, P.O. Box 236
Jefferson City, MO 65102
(314)751-2389

Director of Education*
Division of Youth Services
Department of Social Services
7th Fl. Broadway Bldg., Box 447
Jefferson City, MO 65102
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Director, Staff Development**
Department of Institutions
1539 Eleventh Avenue
Helena, MT 59620
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Educational Coordinator**
Department of Corrections
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(402)471-2654

Supervisor of Education
Department of Prisons
P.O. Box 7000
Carson City, NV 89702
(702)882-9203 Ext. 252

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New Hampshire State Prison
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(603)271-1871

Director*
Division for Children and
Youth Services
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(609)271-4451

Director**
Office of Education Services
Department of Corrections
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Director of Education**
Corrections Department
113 Washington Avenue
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(505)827-8854

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Department of Correctional Services
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Director of Education*
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Director**
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Director of Education
State Penitentiary
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Bismarck, ND 58505
(701)221-6100

Director of Education*
North Dakota Industrial School
R.R. #4
Mandan, ND 58554
(701)667-1400

Administrator
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Department of Rehabilitation and Correction
1050 Freeway Drive North
Columbus, OH 43229
(614)431-2796

Educational Administrator*
Division of Youth Services
51 North High Street
Columbus, OH 43215
(614)462-6410

Deputy Director
Programs and Services
Department of Corrections
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Educational Consultant*
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2605 Salem Street
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Chief**
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Department of Education
333 Market Street
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(717)783-9224

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Department of Corrections
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Cranston, RI 02920
(401)464-2688

Superintendent
Palmetto United School District Number 1
Department of Corrections
4444 Broad River Rd. Box 21787
Columbia, SC 29221
(803)737-8556

Superintendent of Education*
Department of Youth Services
4900 Broad River Road
Columbia, SC 29210
(803)768-6223

Executive Director**
Charities and Corrections
523 East Capitol Street
405 Foss Building
Pierre, SD 57501
(605)773-3478

Director of Education**
Department of Correction
4th Floor Rachel Jackson
Building
320 Sixth Avenue North
Nashville, TN 37219
(615)741-4718

Superintendent
Windham School District
Department of Corrections
Box 40
Huntsville, TX 77340
(409)291-5300

Superintendent of Education*
Texas Youth Commission
8900 Shoal Creek Boulevard
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Director of Adult Education
Department of Corrections
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Director of Education*
Youth in Custody
State Office of Education
250 East 5th South
Salt Lake City, UT 84111
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103 South Main
Waterbury, VT 05676
(802)241-2273

Chief of Program Services*
Department of Social and
Rehabilitation Services
103 South Main
Waterbury, VT 05676
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Superintendent**
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Education
James Monroe Building 7th Floor
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Chief, Education & Employment**
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1 West Wilson Street
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Board of Charities and Reform
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State Special Education Offices

Exceptional Children & Youth
Department of Education
1020 Monticello Court
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Office of Special Education
Department of Education
Pouch F
Juneau, AK 99811
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Special Education
1535 West Jefferson
Phoenix, AZ 85007
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Special Education Section
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Little Rock, AR 72201
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Department of Education
Special Education Division
721 Capitol Mall, Room 610
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201 East Colfax
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Bureau of Student Services
Department of Education
P.O. Box 2219
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Special Programs Division
Department of Public Instruction
Townsend Building, Box 1402
Dover, DE 19903
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DC Public Schools
Division of Special Education
10th and H Streets, N.W.
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Bureau Exceptional Students
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Program for Exceptional Children
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Special Education Section
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650 West State Street
Boise, ID 83720
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Special Educational Services
State Board of Education
100 North First Street
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Division of Special Education
229 State House
Indianapolis, IN 46204
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Special Education Division
Department of Public Instruction
Grimes State Office Building
Des Moines, IA 50319
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State House, Station 23
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Helena, MT 59620
(406)444-4429

Special Education Branch
Department of Education
301 Centennial Mall S. Bx94987
Lincoln, NE 68509
(402)471-2471

Special Education Branch
Department of Education
400 W.King St./Capitol Complex
Carson City, NV 89710
(702)885-3140

Director of Special Education
Division of Special Education
Department of Education
101 Pleasant Street
Concord, NH 03301
(603)271-3741

Division of Special Education
State Department of Education
CN 500
Trenton, NJ 08625
(609)292-0147

Special Education Unit
State Department of Education
Educational Building
Santa Fe, NM 87501
(505)827-6541

Office, Education of Children
with Handicapping Conditions
Education Building Annex, 1073
Albany, NY 12234
(518)474-5548

Division for Exceptional Children
Department of Public Instruction
116 W. Edenton Street
Raleigh, NC 27603-1712
(919)733-3921

Department of Public Instruction
State Capitol
Bismarck, ND 58505
(701)224-2277

Division of Special Education
933 High Street
Worthington, OH 43085
(614)466-2650

Special Education Section
State Department of Education
2500 North Lincoln
Oklahoma City, OK 73105
(405)521-3352

Special Education & Student Services
State Department of Education
700 Pringle Parkway SE
Salem, OR 97310
(503)378-2265

Bureau of Special Education
Department of Education
333 Market St., P.O. Box 911
Harrisburg, PA 17108
(717)783-6913

Department of Education
Room 209 Roger Williams Bldg.
22 Hayes Street
Providence, RI 02908
(401)277-3505

SC Department of Education
100 Executive Center Drive
Santee Building - Suite 824
Columbia, SC 29210
(803)737-8710

Special Education
Kneip Office Building
700 N. Illinois
Pierre, SD 57501
(605)773-3678

Division of Special Education
Department of Education
132 Cordell Hull Building
Nashville, TN 37219
(615)741-2851

Department of Special Education
Texas Education Agency
201 E. 11th Street
Austin, TX 78701
(512)463-9277

State & Federal Compliance
State Office of Education
250 East 500 South
Salt Lake City, UT 84111
(801)533-5982

Division of Special & Compensatory Education
Department of Education
120 State Street
Montpelier, VT 05602
(802)828-3141

Office of Special Education, Pupil Personnel Services and Other State Operated Programs
Department of Education
P.O. Box 6Q
Richmond, VA 23216
(804)225-2402

Office of Superintendent of Public Instruction
Old Capital Bldg., FG-11
Olympia, WA 98504
(206)753-6733

Institutional Education Services
Department of Education
Capitol Complex/Bldg.6, Room B304
Charleston, WV 25305
(304)348-2696 Ext. 326

Department of Public Instruction
125 S. Webster, P.O. Box 7841
Madison, WI 53707
(608)266-1649

State Department of Education
Special Program Unit
Hathaway Building, 2nd Floor
Cheyenne, WY 82002
(307)777-7417

University Affiliated Facilities

Director
Chauncey M. Sparks Center
University of Alabama at Birmingham
1720 Seventh Avenue South
Birmingham, AL 35233

Director
The Neuropsychiatric Institute
University of California Los Angeles
760 Westwood Plaza
Los Angeles, CA 90024

Director
Children's Hospital of Los Angeles
P.O. Box 54700
4650 Sunset Boulevard
Los Angeles, CA 90027

Director
JFK Child Development Center
Box C234
4200 East 9th Avenue
Denver, CO 80262

Director
Georgetown University Child Development
Bles Building Room CG-52
3800 Reservoir Road N.W.
Washington, DC 20007

Director
Mailman Center for Child Development
University of Miami School of Medicine
P.O. Box 016820
Miami, FL 33101

Director
Division of Education for Exceptional Children
570 Aderhold
University of Georgia
Athens, GA 30602

Program Director
Riley Child Development Program
Riley Hospital, Room A578
702 Burnhill Drive
Indianapolis, IN 46223

Director
Developmental Training Center
Indiana University
2853 East Tenth Street
Bloomington, IN 47405

Director
Division of Developmental Disabilities
University Hospital School Building
The University of Iowa
Iowa City, IA 52242

Director
Bureau of Child Research
223 Haworth Hall
University of Kansas
Lawrence, KS 66045

Director
University of Kentucky Human Development Program
114 Porter Building
730 South Limestone
Lexington, KY 40506-0205

Director
Human Development Center
Louisiana State University Medical Center Bldg. #138
1100 Florida Avenue
New Orleans, LA 70119

President
The John F. Kennedy Institute for Handicapped Children
707 North Broadway
Baltimore, MD 21205

Director
Developmental Evaluation Clinic
Children's Hospital Medical Center
300 Longwood Avenue
Boston, MA 02115

Director
Developmental Disabilities Institute
Wayne State University
540 E. Canfield Street
Detroit, MI 48201

Director
University of Minnesota Program on Developmental Disabilities
University of Minnesota
6 Patee Hall
Minneapolis, MN 55455

Director
University Affiliated Program of Mississippi
University of Southern Mississippi
Southern Station Box 5163
Hattiesburg, MS 39401

Director
University Affiliated Facility for Developmental Disabilities
University of Missouri at Kansas City
2220 Holmes Street Room 316
Kansas City, MO 64108-2676

Director
Meyer Children's Rehabilitation Institute
University of Nebraska Medical Center
444 South 44th Street
Omaha, NE 68131

Executive Director
UMDNJ-R.W. Jonson Medical School
TR#3 P.O. Box 101
675 Hoes Lane
Piscataway, NJ 08854-5635

Director
Rose F. Kennedy Center
Yeshiva University
1410 Pelham Parkway South
Bronx, NY 10461

Director
Mental Retardation Institute/
University Affiliated Facility
Westchester County Medical Center
Valhalla, NY 10595

Director
Clinical Center, Study of Development and Learning
Biological Sciences Research Center 220H
University of North Carolina
Chapel Hill, NC 27514

Director
University of Cincinnati Center for Developmental Disabilities
Pavilion Building
Elland & Bethesda Avenues
Cincinnati, OH 45229

Director
The Nisonger Center
Ohio State University
McCampbell Hall
1580 Cannon Drive
Columbus, OH 43210

Director
Center on Human Development
University of Oregon-Eugene
901 East 18th Street
Eugene, OR 97403

Director
Developmental Disabilities Program
Temple University Ritter Annex
13th Street & Columbia Avenue
Philadelphia, PA 19122

Director
University Affiliated Program of
South Carolina
Benson Building Pickens St.
University of South Carolina
Columbia, SC 29208

Director
Center for Developmentally
Disabled
University of South Dakota
Julian Hall
School of Medicine
Vermillion, SD 57069

Director
Child Development Center
University of Tennessee
711 Jefferson Avenue
Memphis, TN 38105

Director
Developmental Center for
Handicapped
Utah State University
UMC 68
Logan, UT 84322

Director
Child Development and Mental
Retardation Center
University of Washington
Seattle, WA 98195

Director
University Affiliated Center for
Developmental Disabilities
509 Allen Hall P.O. Box 6122
West Virginia University
Morgantown, WV 26506-6122

Director
Waisman Center of Mental
Retardation and Human
Development
University of Wisconsin
1500 Highland Avenue
Madison, WI 53705

Section 10

FEDERAL FUNDING GUIDE

This section lists federal funding programs that may be utilized either directly or indirectly for the provision of educational and habilitative services for handicapped offenders, including the mentally retarded and learning disabled. Most of these funding sources are accessed through the State Education Agency (SEA) or other relevant state agencies handling federal flow-through funds. A few of the listed resources are federal discretionary grant programs for which applications are made directly to the federal contact office as listed.

Funding is dependent on appropriations by Congress and may vary from year to year. Especially in terms of the discretionary programs, funding may not be guaranteed annually. Furthermore, different priorities are frequently set each year. For that reason, correctional agencies are encouraged to contact the federal and state contacts listed to obtain up-to-date information and to be placed on mailing lists for upcoming program announcements and RFPs (requests for proposals).

Three publications, The Federal Register, Commerce Business Daily, and Guide to Federal Funding (published yearly with 4 quarterly updates), are excellent tools for keeping abreast of federal funding opportunities. The Correctional Education Program in the U.S. Department of Education (described in the Resource Guide) also provides advice on available funding. It periodically issues an update on funding of particular relevance to correctional agencies.

U.S. DEPARTMENT OF EDUCATION (ED)

PUBLIC LAW	**97-35, THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981 (ECIA), AS AMENDED BY 100-297, HAWKINS-STAFFORD ELEMENTARY AND SECONDARY IMPROVEMENT AMENDENTS OF 1988**
DESCRIPTION	To assist state and local education agencies to improve elementary and secondary education through consolidation of elementary and secondary education programs into single authorization.
PROGRAM TITLE	**Education Consolidation and Improvement Programs, Chapter 2**
TYPE OF GRANT	Formula Grants
DESCRIPTION	Chapter 2 consolidated 42 elementary and secondary education activities into block grants for three broad purposes: basic skills improvement, improvement of support services, and special

	projects. SEAs administer Chapter 2 funding. LEAs are eligible, and correctional agencies have utilized this funding slot for a variety of purposes.
AUTHORIZING LEGISLATION	Chapter 2 of ECIA (Subtitle D of Title V of P.L. 97-35, Section 561-596), as amended.
WHO MAY APPLY	State education agencies; local education agencies must apply to SEA.
FEDERAL CONTACT	ED, OESE, School Improvement Programs. (202) 732-4336
PROGRAM TITLE	**Education for the Disadvantaged, Chapter 1**
TYPE OF GRANT	Formula Grants
DESCRIPTION	To expand and improve elementary and secondary education programs by meeting special needs of educationally deprived children in low income areas in public and private schools. Chapter 1 monies are widely used by correctional agencies for remedial basic education programs. Can only be used for students under age 21.
AUTHORIZING LEGISLATION	Chapter 1 of ECIA (Subtitle D of Title V of P.L.97-35, Section 552-559, 591-596), as amended.
WHO MAY APPLY	Local education agencies (must apply directly to SEA).
FEDERAL CONTACT	ED, OESE, Compensatory Education Programs. (202) 732-4682
PROGRAM TITLE	**Secondary School Programs for Basic Skills Improvement and Dropout Prevention and Reentry, Chapter 1**
TYPE OF GRANT	Discretionary in FY 89, Formula Grants beginning in FY 90
DESCRIPTION	To support a new program that focuses on assisting educationally disadvantaged secondary school students.
AUTHORIZING LEGISLATION	Hawkins-Stafford Elementary and Secondary Improvement Amendments of 1988 (Section 1101 et seq. P.L. 100-297).
WHO MAY APPLY	Local education agencies.

FEDERAL CONTACT	ED, OESE, Compensatory Education Programs. (202) 732-4682
PROGRAM TITLE	**Education for the Disadvantaged-Children in State Administered Institutions Serving Neglected and Delinquent Children**
TYPE OF GRANT	Formula Grants
DESCRIPTION	To improve education of neglected or delinquent children in state administered institutions or in adult correctional facilities. Widely used in corrections but restricted to under 21 population.
AUTHORIZING LEGISLATION	Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Subtitle D of Title V of P.L. 97-35, Section 554(a)(2)(c)), as amended.
WHO MAY APPLY	State education agencies responsible for providing free public education for neglected or delinquent children in institutions.
FEDERAL CONTACT	ED, OESE, Compensatory Education Programs. (202) 732-4682
PROGRAM TITLE	**Follow Through Act**
TYPE OF GRANT	Discretionary Grants
DESCRIPTION	To provide comprehensive services to children from low income families and to develop effective practices for educating them.
AUTHORIZING LEGISLATION	Follow Through Act (Subchapter C, Chapter 8, Subtitle A of Title VI of P.L. 97-35, Sections 661-670), reauthorized by the Human Services Reauthorization Act of 1984.
WHO MAY APPLY	Local education agencies or other public or private agencies, organizations, and institutions.
FEDERAL CONTACT	ED, OESE, Division of Discretionary Grants. (202) 732-4342
PROGRAM TITLE	**Law Related Education**
TYPE OF GRANT	Discretionary Grants
DESCRIPTION	Supports projects in state and local education agencies and educates the public about the American legal system and the principles on which it is

	based so that students may become informed and effective citizens.
AUTHORIZING LEGISLATION	Secretary's Discretionary Program, Chapter 2 of ECIA (Subtitle D of Title V of P.L. 97-35), as amended.
WHO MAY APPLY	State education agencies, local education agencies, postsecondary schools, public or private agencies, organizations or institutions.
FEDERAL CONTACT	ED, OESE, Division of Discretionary Grants. (202) 732-4342
PROGRAM TITLE	**Alcohol and Drug Abuse Program**
TYPE OF GRANT	Discretionary Grants
DESCRIPTION	Assists state and local education agencies in developing training programs for education personnel in the prevention of alcohol and drug abuse problems through a national training system. Can be used to train correctional personnel.
AUTHORIZING LEGISLATION	Secretary's Discretionary Program, Chapter 2 of ECIA (Subtitle D of Title V of P.L. 97-35), as amended.
WHO MAY APPLY	Local education agencies must apply to Training and Technical Assistance Regional Training Centers.
FEDERAL CONTACT	ED, OESE, Division of Discretionary Grants. (202) 732-4342
PUBLIC LAW	**95-561, ELEMENTARY AND SECONDARY EDUCATION, AS AMENDED BY 100-297, HAWKINS-STAFFORD ELEMENTARY AND SECONDARY IMPROVEMENT AMENDMENTS OF 1988**
PROGRAM TITLE	**Women's Educational Equity Act**
TYPE OF GRANT	General and Challenge Grants/Contracts
DESCRIPTION	To promote educational equity for women through development and dissemination of model education programs and materials. To provide financial assistance to enable education agencies and institutions to meet the requirements of Title IX. May be used for special projects to provide equity in educational programming for women inmates,

	including the handicapped. While priority areas vary, proposals usually stress the development of vocational skills and the transition of women who are removed from school or employment back into work.
AUTHORIZING LEGISLATION	Elementary and Secondary Education Act, as re-enacted by P.L. 95-561. Title IX, Part C and Education Amendments of 1984, P.L. 95-511; P.L. 100-297.
WHO MAY APPLY	Public agencies, nonprofit private agencies, organizations, institutions, and individuals.
FEDERAL CONTACT	ED, OERI, Women's Educational Equity Act Program, Division of Discretionary Grants. (202) 732-4342
PUBLIC LAW	**91-230, ADULT EDUCATION ACT, AS AMENDED**
DESCRIPTION	To support projects for the improvement and expansion of adult education.
PROGRAM TITLE	**Adult Education State Administered Program**
TYPE OF GRANT	Formula Grants
DESCRIPTION	To expand educational opportunities for adults age 16, or beyond the age of compulsory school attendance under state law, and encourage establishment of adult education programs. This grant program enables adults to acquire the basic skills necessary to function in society and to complete secondary school. A minimum of 10 percent of the state allocation is set aside for "institutionalized adults," including correctional populations.
AUTHORIZING LEGISLATION	ED, Adult Education Act, P.L. 91-230, as amended by Title I of P.L. 98-511, and P.L. 100-297.
WHO MAY APPLY	State education agencies. Local education agencies, public or private agencies, organizations and institutions must apply to state education agencies.
FEDERAL CONTACT	Office of Vocational and Adult Education (OVAE), Division of Adult Education. (202) 732-2270

PUBLIC LAW	**98-511, THE BILINGUAL EDUCATION ACT: TITLE VII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 AS AMENDED IN 1984.**
PROGRAM TITLE	**Bilingual Education-Family English Literacy Programs**
TYPE OF GRANT	Project Grant
DESCRIPTION	Designed to help adults and out-of-school youth achieve English language competency. Can be used for bilingual/ESL programs in corrections.
AUTHORIZING LEGISLATION	Bilingual Education Act: Title VII of the Elementary and Secondary Education Act of 1965, as amended by P.L. 98-511 (1984).
WHO MAY APPLY	Local education agencies, postsecondary schools, and private nonprofit organizations.
FEDERAL CONTACT	ED, Office of Bilingual Education and Minority Language Affairs. (202) 732-5063
PROGRAM TITLE	**Bilingual Education-Special Populations Program**
TYPE OF GRANT	Project Grant
DESCRIPTION	Preparatory or supplementary to programs assisted or funded under P.L. 98-511 for bilingual, special education, and gifted and talented programs. May be utilized to provide bilingual/ESL programs for mentally retarded and learning disabled inmates.
AUTHORIZING LEGISLATION	Bilingual Education Act, Title VII of the Elementaryand Secondary Education Act of 1965, as amended by P.L.98-511 (1984).
WHO MAY APPLY	Local education agencies, postsecondary schools and private nonprofit organizations.
FEDERAL CONTACT	ED, Office of Bilingual Education and Minority Language Affairs. (202) 732-5063

PUBLIC LAW	**98-524, THE CARL D. PERKINS VOCATIONAL EDUCATION ACT**
PROGRAM TITLE	**State Vocational Education Opportunities Program**
TYPE OF GRANT	Formula Grants to States
DESCRIPTION	To provide vocational education services and activities to meet the special needs of handicapped and disadvantaged individuals, adults in need of training or retraining, individuals who are single parents or homemakers, individuals who participate in programs designed to eliminate sex bias and stereotyping in vocational education, and criminal offenders serving in correctional institutions. A 1% set aside exists through this legislation for individuals who are incarcerated.
AUTHORIZING LEGISLATION	Carl D. Perkins Vocational Education Act (Part A of Title II of P.L. 98-524).
WHO MAY APPLY	Local education agencies, postsecondary schools (all must apply to state board of vocational education). State boards may also make arrangements with private vocational training schools, private postsecondary schools, and employers.
FEDERAL CONTACT	ED, Office of Vocational and Adult Education, Corrections Education Program. (202) 732-2376
PROGRAM TITLE	**State Vocational Education Improvement, Innovation and Expansion Program**
TYPE OF GRANT	Formula Grants to States
DESCRIPTION	To assist states to expand, improve, modernize and develop quality vocational education programs that will provide marketable skills to the existing and future workforce, improve productivity, and promote economic growth. A state shall use funds reserved for criminal offenders (1%) who are in correctional institutions to meet the special needs of such persons for vocational education services and activities.
AUTHORIZING LEGISLATION	Carl D. Perkins Vocational Education Act (Part B of Title II of P.L. 98-524).
WHO MAY APPLY	Local educational agencies and institutions of higher education working with juveniles and adult

	prisons, jails, reformatories, work farms, detention centers, or halfway houses, community-based rehabilitation centers or any other similar institution designed for the confinement and rehabilitation of criminal offenders (must apply to SEA).
FEDERAL CONTACT	ED, Office of Vocational and Adult Education, Division of Vocational Education. (202) 732-2251
PROGRAM TITLE	**Bilingual Vocational Training Program**
TYPE OF GRANT	Project Grants
DESCRIPTION	To provide financial assistance for bilingual vocational education and training for individuals with limited English proficiency to prepare them for jobs in recognized occupations and new and emerging fields.
AUTHORIZING LEGISLATION	Carl D. Perkins Vocational Education Act (Title IV, Part E, Section 441 of P.L. 98-524).
WHO MAY APPLY	State agencies, local education agencies, postsecondary educational institutions, private nonprofit vocational training schools, and nonprofit organizations specially created to serve individuals who normally speak a language other than English.
FEDERAL CONTACT	ED, Office of Vocational and Adult Education. (202) 732-2251
PUBLIC LAW	**94-142, EDUCATION OF THE HANDICAPPED ACT, AS AMENDED**
PROGRAM TITLE	**State Aid Programs for the Handicapped-State Grant Program**
TYPE OF GRANT	Formula Grants
DESCRIPTION	To assist states in providing free public education for the handicapped at preschool, elementary, and secondary levels. Includes all handicapped persons ages 3 through 21. Correctional populations meeting the age and handicapping criteria are specifically included.

AUTHORIZING LEGISLATION	Education of the Handicapped Act (Part B. of P.L. 94-142), as amended.
WHO MAY APPLY	Local education agencies and state operated programs.
FEDERAL CONTACT	ED, OSERS, Special Education Programs Division of Assistance to States. (202) 732-1016
PROGRAM TITLE	**State-Supported School Programs for the Handicapped State-Grant Program**
TYPE OF GRANT	Formula Grants
DESCRIPTION	To strengthen programs for children in state-operated and state-supported schools.
AUTHORIZING LEGISLATION	Section 146 of Title I as incorporated by Section 554 of the ECIA of 1981, formerly referred to as the P.L. 89-313, (20 U.S.C. 3803).
WHO MAY APPLY	State agencies, including corrections, that operate educational programs for the handicapped (apply to the State Department of Education, Director of Special Education).
FEDERAL CONTACT	ED, OSERS, Special Education Programs, Division of Assistance to States. (202) 732-1016
PROGRAM TITLE	**Research in Education of the Handicapped**
TYPE OF GRANT	Project Grants/Contracts
DESCRIPTION	To support special education personnel, related services personnel and other appropriate personnel, including parents, in improving the education and related services for the handicapped; and to conduct research surveys, or demonstrations relating to the education of handicapped children and youth. The secretary selects among ten priority areas for each fiscal year.
AUTHORIZING LEGISLATION	Education of the Handicapped Act (Part E of Sections 641-644 of P.L. 91-230).
WHO MAY APPLY	State education agencies, local education agencies, postsecondary schools, public and private nonprofit education or research agencies, and other appropriate persons.

FEDERAL CONTACT	ED, OSERS, Division of Special Education Programs. (202) 732-1099
PROGRAM TITLE	**Training Personnel for Education of the Handicapped**
TYPE OF GRANT	Project Grants
DESCRIPTION	To prepare and inform educators and other personnel who work with handicapped children, through preservice and in-service training. Grant monies could be utilized for the training of correctional special education staff.
AUTHORIZING LEGISLATION	Education of the Handicapped Act (Part D of Sections 631, 632, and 634 of P.L. 91-230), as amended.
WHO MAY APPLY	State education agencies, institutions of higher education, public and private nonprofit organizations, and other appropriate nonprofit agencies (individuals must apply to participating organizations).
FEDERAL CONTACT	ED, OSERS, Special Education Programs, Division of Personnel Preparation. (202) 732-1071
PROGRAM TITLE	**Secondary and Transition Programs for the Handicapped**
TYPE OF GRANT	Discretionary Grants
DESCRIPTION	To strengthen and coordinate education, training, and related services for handicapped youth to assist in the transitional process to postsecondary environments and the world of work. This grant program has been utilized by corrections in the past.
AUTHORIZING LEGISLATION	Education of the Handicapped Act (Part C of Section 626 of P.L. 98-199), as amended.
WHO MAY APPLY	Postsecondary schools, state and local education agencies, and public and private nonprofit organizations.
FEDERAL CONTACT	ED, OSERS, Special Education Programs, Division of Educational Services. (202) 732-1109

PUBLIC LAW	**93-112, REHABILITATION ACT OF 1973 AS AMENDED**
PROGRAM TITLE	**Centers for Independent Living**
TYPE OF GRANT	Project Grants
DESCRIPTION	To provide independent living services to the severely handicapped so they can function more independently in family and community settings or secure and maintain appropriate employment.
AUTHORIZING LEGISLATION	Rehabilitation Act of 1973, P.L. 92-112, as amended; Section 711 of P.L. 95-602; P.L. 98-221.
WHO MAY APPLY	State vocational rehabilitation agencies. If the state agency fails to apply within 6 months of grants having become available, any local public or private nonprofit agency may apply directly to ED.
FEDERAL CONTACT	ED, OSERS, Rehabilitation Services Administration, Office of Developmental Programs. (202) 732-1346
PROGRAM TITLE	**Vocational Rehabilitation -- Basic State Grants**
TYPE OF GRANT	Formula Grants
DESCRIPTION	To provide vocational rehabilitation services to persons with mental or physical handicaps so they may become gainfully employed, with priority given to those with severe handicaps.
AUTHORIZING LEGISLATION	Rehabilitation Act of 1973, P.L. 93-112, as amended; Sections 101-104 of Title I of P.L. 95-602; P.L. 98-221
WHO MAY APPLY	State Vocational Rehabilitation agencies.
FEDERAL CONTACT	Regional Office of State and Vocational Rehabilitation agencies. (202) 732-1402

U.S. DEPARTMENT OF LABOR (DOL)

PUBLIC LAW	**97-300, THE JOB TRAINING PARTNERSHIP ACT (JTPA)**
DESCRIPTION	To establish programs to prepare youth and unskilled adults for entry into the labor force, and to afford job training to those economically disadvantaged individuals and other individuals

	facing serious barriers to employment who are in special need of such training to obtain productive employment.
PROGRAM TITLE	**Training Services for the Disadvantaged**
TYPE OF GRANT	Formula Grants
DESCRIPTION	Training activities may include job search assistance, counseling, remedial education, skills training, supportive services, literacy and bilingual training, GED instruction. Offenders are eligible recipients under the provisions for disadvantaged as well as those with employment barriers to overcome.
AUTHORIZING LEGISLATION	Title II, Part A, Section 201 of JTPA.
WHO MAY APPLY	Public and private agencies and organizations which have a proven record of delivering job training services. Correctional agencies apply to the local SDA (Service Delivery Area) or PIC (Private Industry Council).
FEDERAL CONTACT	Office of the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, N.W. Washington, D.C. 20210
PROGRAM TITLE	**State Education Coordination Grants**
TYPE OF GRANT	Discretionary Grants
DESCRIPTION	To provide training services for the disadvantaged, including offenders, to prepare them for productive employment. These monies are particularly aimed at adult basic education and placement components.
AUTHORIZING LEGISLATION	Title II, Part B, Section 123 of JTPA.
WHO MAY APPLY	Public and private service deliverers, including correctional agencies, institutions, and school districts. Under this title, 8 percent of available funds are allocated to the SEA. Applications for grants under this slot should be sent to the State Department of Education.
FEDERAL CONTACT	Office of the Assistant Secretary for Employment and Training, U.S. Department of Labor, Washington, D.C. 20210.

PUBLIC LAW	**99-514, THE TAX REFORM ACT OF 1986**
PROGRAM TITLE	**The Targeted Jobs Tax Credit Program (TJTC)**
DESCRIPTION	The TJTC program offers employers a credit against their tax liability for hiring individuals from nine target groups including ex-offenders, disadvantaged youth age 18 through 24, and handicapped persons. Special and correctional educators need to be aware of this program since it can assist in placing ex-clients in jobs. It is widely used in corrections. For most target groups employers may claim a credit of 40 percent of first year's wages up to $6,000 per employee.
AUTHORIZING LEGISLATION	Internal Revenue Code of 1954, as amended by the Revenue Act of 1978; Economic Recovery Tax Act of 1981; Tax Equity and Fiscal Responsibility Act of 1982; Deficit Reduction Act of 1984; Tax Reform Act of 1986.
WHO MAY APPLY	Eligible individuals from nine target groups. Applicants must be "certified" by the State Employment Security agency (job service).
FEDERAL CONTACT	The TJTC program is administered jointly at the federal level by the Employment and Training Administration of the U.S. Department of Labor (DOL); the Internal Revenue Service (IRS), and the Office of Adult and Vocational Education, U.S. Department of Education (ED). For further information and detail, contact your Local Employment Service or your State Education Agency.

U.S. DEPARTMENT OF JUSTICE (DOJ)

PROGRAM TITLE	**National Institute of Corrections--Direct Technical Assistance**
DESCRIPTION	Direct technical assistance is made available to advance basic, vocational, and special education for state prison inmates. Direct technical assistance is usually available for 3 to 5 days on site assistance by NIC staff or consultants. Direct technical assistance funds support travel, consultant fee, and costs associated with the specific task.

WHO MAY APPLY	State departments of corrections, prisons, and correctional education agencies. Requests are made by submitting a memorandum on agency letterhead that: (1) identifies the problem(s) for which assistance is sought; (2) suggests a plan of action to meet the problem; (3) explains why assistance must be obtained at the federal level; (4) identifies the persons or agencies deemed best qualified to provide the assistance needed; and (5) the anticipated number of days of assistance needed.
FEDERAL CONTACT	National Institute of Corrections, U.S. Department of Justice. (202) 724-8300

ABSTRACTS OF KEY RELEVANT LITERATURE

Bell, Raymond. The Nature and Prevalence of Learning Deficiencies Among Adult Inmates: Executive Summary of the Technical Report. Washington, DC: National Institute of Justice, June 1983.

This study was conducted by Lehigh University for the National Institute of Justice and, to date, represents the largest sampling survey of the nature and prevalence of learning deficiencies among adult inmates. The sample of over a thousand inmates was drawn from three institutions in each of the states of Louisiana, Pennsylvania, and Washington. Findings indicated that at least 42 percent of the inmates had some form of learning deficiency and of the 42 percent, 82 percent had indications of specific learning disabilities. It was further found that 70 percent came from unstable home environments, had a poor employment history prior to incarceration, and had childhood problems with drug and alcohol abuse. The report concludes with policy recommendations that address the need for more adequate diagnosis and treatment of these disabilities; screening procedures that better measure incarcerated individuals with regard to adaptive behavior; and educational programs tailored to serve the special needs of this population.

Blackhurst, A.E. "Developing Special Education Inservice Training for Corrections Personnel." Implementing Training for Correctional Educators. Richmond, KY: C/SET, 1986.

Since there is a paucity of preservice training to prepare educators to work in correctional facilities, Blackhurst emphasizes the need for inservice training to enable those involved in providing educational services to improve their effectiveness. He offers a systematic program development model, which has a mission statement as its basis for short- and long-range planning. A definition of functions, competency identification, objectives criteria, content selection, and program structure must be in place before program implementation and management are underway. It is emphasized that the model presented in this paper and the procedures associated with its implementation should be subject to the ongoing problems of the program as it progresses. Therefore, periodic evaluations should call for new objectives to revise and refine the model.

C/SET Curriculum Training Modules. Correctional/Special Education Training Project. U.S. Department of Education, Office of Special Education Programs, Division of Personnel Preparation, 1984.

This is a series of eight inservice training modules, each designed as a unit of instruction for correctional educators. The modules contain at least four essential components: objectives; a rationale describing the importance of these objectives; learning activities; and evaluative measures to assess students' mastery of objectives. In addition, each module contains an introductory section entitled "Trainer's Guide," which is standardized and provides prospective trainers with specific suggestions

on planning and delivery of instruction. The following is a summary of each module.

Module 1: "Correctional Education/The Criminal Justice System." Prepared by Peter Leone and Stephen Isaacson.

The criminal justice system and process are described. Historical perspectives on the system include: identification of the roots of contemporary justice practices; laws governing protection of individuals subject to arrest, detention, and confinement; current public issues influencing the purposes and actions of the criminal justice system; and the differences between jails, lockups, prisons, etc. Statistics are provided on the approximate number of offenders in detention facilities, facts about conditions in juvenile and adult facilities, and the major types of correctional educational programs. The last category states the proportion of incarcerated juveniles and adults receiving educational services; what the curricular emphasis is in Adult Basic Education; the skills necessary for the attainment of a GED certificate; and the proportion of handicapped juveniles and adult offenders receiving special education services.

Module 2: "Characteristics of Exceptional Populations." Prepared by Peter Leone and Stephen Isaacson.

This module identifies the characteristics of exceptional populations and differentiates between necessary functional skills and other learning tasks involved in training mentally retarded offenders and those with other learning disabilities. The crucial issues related to educating this population are: a) the degree to which they receive the education they require; b) the characteristics of adult learners; and c) identifying the occasions when incarcerated individuals need transition services. The best learning activities for adult learners with disabilities should be drawn from personal experience, be problem centered, give a sense of purpose, and should involve the students in setting their own goals and monitoring their own progress. Finally, these activities must be undertaken at an appropriate functional pace for the individual student.

Module 3: "Introduction to Special Education." Prepared by Donna Dwiggins.

The objective of this module is to provide correctional educators with a basic understanding of the terminology and issues/concepts of special education--when and where it originated, where it is headed. Definitions of normality/abnormality are offered in statistical, medical, and social terms. Distinctions are drawn between the terms exceptional, handicapped, disabled, and impaired. Classroom simulation exercises are suggested, whereby instructors may experience the feelings of frustration, anxiety and uncertainty handicapped students experience. The goal of these exercises is to accommodate differences in the learning process; to dissuade regimentation; to identify bases for instruction of concepts and their correlative tasks. Placement tests are included as samples for establishing learning resource management systems. These are emphasized as a partial solution to the difficulty of diagnosing handicaps in the corrections environment. The final section discusses the historical development of special education in public schools and in correctional

institutions. Recent legislative decisions on the protection of retarded and handicapped inmates are indexed.

Module 4: "Overview of P.L. 94-142 and IEPs." Prepared by Donna Dwiggins.

This module outlines the policy considerations for P.L. 94-142 and the dominant components in the Act. Evaluation and testing procedures (medical, academic, and psychological) are discussed, as are due process requirements. Also covered are criteria for implementing special education and related services--which encompass counseling, therapeutic recreation, and transportation needs. Functions for a screening committee are outlined, then followed by a guide to developing an individualized education program (IEP). This includes information on instructional steps, a summary of intended outcomes for IEPs, and the procedures for making evaluations.

Module 5: "Assessment." Prepared by George Sugai.

This module describes the critical components for effective assessment of exceptional students. Sample suggested activities include: 1) identifying student during each of the five phases of learning; 2) diagnosing student through survey and analysis; 3) making peer comparison; and 4) assessing both academic performance and social skills. The advantages and disadvantages of selecting test formats (i.e., multiple choice vs. matching-item examinations) is discussed. Emphasis is placed on how to identify social skills. It is noted that while the bases for assessing social skills are similar to those that measure learning skills, subjective interpretations are more common here. Functional analysis, in which dependent and independent variables are constantly indicated, helps to avoid individual bias. Finally, it is recommended that rather than identifying social skills, emphasize the characteristics of these skills--the pre-disposing factors, precipitating factors, contributing factors, and the expected social behavior criteria for that individual's particular environment.

Module 6: "Curriculum." Prepared by George Sugai.

Upon completion of this module, the participant should have competency in selecting, designing, and adapting a curriculum for handicapped juvenile and adult offenders. Guidelines for measuring student performance are outlined. The use of elementary and/or secondary curricula is cited as inappropriate because they are constructed under the assumption that certain requisite skills are present in the handicapped student. It is suggested that teachers adapt and/or make their own materials for reading and math curricula. However, there are appropriate vocational/career skills materials which prepare students for working in a community based structure. Samples of these materials are included.

Module 7: "Methods." Prepared by George Sugai.

This module proceeds from module #6 by providing the components for instructional methodology. They relate to a) planning the instructional setting in terms of handicaps (physical, behavioral, and academic); b) programming according to stages of learning; c) establishing the eight

essential steps to learning; and d) assessing and evaluating student performances. Implementation of instruction is divided into four categories: behavioral objectives, task analysis, basic instructional manipulations, and instructional feedback. Remediation, which should be attempted after behavioral excess, should be applied according to "fair-pair principles," i.e., "don't take away without replacing." Task analysis is treated as both process and product--breaking down objectives into smaller, teachable steps and indicating the variables encountered during each of these steps. It is stressed that variety (of seating, activity, peer interaction) maximizes opportunities for academic and social behavior learning.

Module 8: "Vocational Special Education." Prepared by Mark Posluzny.

The objectives of this module are to define, provide a rationale for, and outline the areas necessary to implement a vocational special education program in correctional facilities. Sample mechanics manuals and lesson plans are included; they are structured to train students to be employment-ready upon return to society. Textbooks and other instructional materials are classified into two areas: learning disabled and mildly handicapped. It is stressed that most handicapped offenders have been excluded from traditional vocational programs because they failed to meet academic standards. Therefore, training must be basic, categorical, and specified according to skills. Standards for selecting curriculum materials pertain to occupational responsibilities, which are subdivided into subject units and glossaries.

Denkowski, G.C. and Denkowski, K. "The Mentally Retarded Offender in the State Prison System." Criminal Justice and Behavior 12,1(1985): 55-69.

Establishes a current average national estimate of mental retardation among inmates: an average of 2 percent or about 7,600 are mentally retarded; the number presently confined in all types of correctional institutions is approximately 12,640. Ongoing trends, attributed to diversion processes, suggest that this prevalence rate will be reduced even further in the future. States containing large pools of poorly educated persons should find more retarded inmates in their prisons. Survey results for a questionnaire to prison administrators showed that 42 percent of the respondents felt that MR inmates were disproportionately placed into menial jobs (e.g., janitors, groundskeepers, porters) because they did not meet the educational requirements for higher level prison employment.

Gerry, M.H. Monitoring the Special Education Programs of Correctional Institutions. Washington, DC: U.S. Dept. of Education, 1985.

This guide is comprised of four major sections: legal requirements; a handicapped population profile; an annual procedure for monitoring programs; and a discussion of the obstacles to compliance in correctional institutions. The legal section reviews all major statutes relating to special education in correctional facilities--especially P.L. 94-142 and Section 504 of the Vocational Rehabilitation Act. The population profile provides statistics on the prevalence of handicapped individuals in

1) juvenile correctional institutions; 2) adult correctional institutions; 3) pretrial detention centers and jails; and 4) group homes. Steps in carrying out P.L. 94-142 are outlined for special education administrators so that they may develop monitoring plans. Finally, there is a discussion of the major barriers to compliance and the disincentive for enrollment in education programs. Work compensation is cited as the strongest disincentive to enrollment. Other barriers include disciplinary sanctions; record inaccessibility; frequent transfer; and restrictive living arrangements. The monograph concludes with a suggested monitoring plan for state education agencies. This plan takes into consideration the correctional environment and its unique institutional restrictions and procedures.

Haskins, Jimmy R. and Friel, Charles M. Project CAMIO: The Mentally Retarded in an Adult Correctional Institution, Vol. VI. Huntsville, TX: Sam Houston State University, 1973.

This early monograph presents survey findings on the level of diagnosis and treatment of mentally retarded offenders in the correctional systems of 45 states and the District of Columbia. The survey is part of Project CAMIO (Correctional Administration and the Mentally Incompetent Offender), a study to determine the incidence of criminal incarceration among MRs. It also identifies laws, procedures, and practices that adversely affect both their prosecution and imprisonment. Findings indicate that approximately 90 percent of correctional systems employed psychometric evaluation measures and instruments; that approximately 4 percent of prisoners were identified as MR; and that 10 percent of state systems did not provide special treatment for MR offenders. However, it was reported that while treatment for this population has improved over the last 10 years, court decisions ordering state correctional systems to either provide appropriate treatment or release MR offenders will have less impact than in years past.

Howell, K. W. "Selecting Special Education Treatments." Journal of Correctional Education 36(1985): 26-29.

This article reviews the debate on procedures used to select educational treatment for handicapped students. Traditionally, ability-based assessments were the criteria for evaluating and training these students. This approach is now being disputed because of the growing consensus that the tests do not separate innate ability from learned skills or achievements. The tests, therefore, are not fully reliable or valid. This study recommends that greater focus be placed on how students should be taught and less on what academic materials should be utilized. It also places emphasis on the necessity to differentiate functional/social adaptive skills from other learning tasks. The final objective should be to identify the relevant aspects of a task and to develop strategies for remembering what is learned.

Keilitz, Ingo. "Prevalence of Mental Disabilities and Handicapping Conditions Among Juvenile Offenders." Final draft report to the U.S. Department of Education, Office of Special Education and Rehabilitative Services, 1987.

Keilitz argues that it is unlikely that sound public policy and appropriate social programs for mentally disabled and handicapped persons in the criminal justice system will be developed until the dimensions of the problem are well known and clearly articulated. The problems are the following: a) definitional (studies employ varying definitions of mental disabilities and handicapping conditions); b) diagnostic (studies use testing instruments that are inappropriate); c) procedural (subjective diagnoses are conducted by the same individuals who ascertain the extent of the disabilities or handicapping conditions); d) analytical (inappropriate study design or use of statistical tests); and e) presentational (failure to provide sufficient information for interpretation of the results). To remedy this, Keilitz constructs a "meta-analytic" approach that numerically combines the results of independent studies for the purpose of integrating results. Using 31 articles that meet proper informational criteria, Keilitz formed the database for the study and reported these estimates: the weighted prevalence of learning disabilities among juvenile offenders is 35.6 percent and the estimate of mental retardation is 12.6 percent. The estimate for other handicapping conditions is as follows: behavior disorders, 20.8 percent; emotional disorders, 7.9 percent; neurological impairments, 22.1 percent; psychiatric disorders,51.7 percent; learning disabilities/emotional disturbance, 29.8 percent; and mental retardation/emotional disturbance, 16.0 percent.

Leone, Peter. "Preservice and Inservice Training for Teachers of Incarcerated Handicapped Youth." Paper presented at the Correctional/Special Education Training Conference, Arlington, VA, April 1984.

Suggestions for specialized training--both preservice and inservice--are delineated in this study. It is emphasized that screening, assessment, and identification processes be conducted without drawing undue attention to offenders suspected of being handicapped. Once these procedures are completed, the training should be carried out by teachers who have knowledge of the criminal justice system and the characteristics of incarcerated individuals. Other training competencies cited in rank order of importance are: communication and interpersonal skills; knowledge of materials and curricular development; and knowledge of service delivery systems; agencies, and networks for support. Regarding classroom management, teachers should have a good grasp of behavioral principles and counseling techniques. Finally, the instructional strategies should be empirically based, and should de-emphasize such labels as "mentally retarded," while focusing on the instructional needs and characteristics of handicapped persons. The training project discussed in this paper was undertaken by Johns Hopkins University and the University of Maryland for educators from the Maryland correctional institutions at Hagerstown and Jessup.

McDonald, J.A. and Beresford, G. Mentally Retarded Adult Offenders in the Criminal Justice Systems; A Training Program. Austin, TX: Texas Council on Crime and Delinquency, 1984.

This training manual is designed for law enforcement officers, attorneys, probation officers, corrections and social service personnel, and parole officers. It is divided into eight sessions: understanding mental retardation; the MR offender in the criminal justice system; identifying MR persons; interviewing the MR offender; assessing the case: probation and parole officers; assessing the case: judges and attorneys; supervising and habilitating MR adult offenders; and back to basics. Each session is an independent, complete component in the manual; trainers can select sessions, and parts of sessions that best suit their circumstances. Also, each session contains its own objectives, training schedule, topics, and methods. Materials include exercise handouts and descriptor transparencies. Sample interviews with offenders suspected of having learning disabilities are provided. They are classified into question-answer formats to be used by legal personnel, corrections personnel, social and case workers, etc.

Nelson, C. Michael, Rutherford, Robert B. and Wolford, Bruce I., eds. Special Education in the Criminal Justice System. Columbus, OH: Merrill, 1987.

This is the only full-length book focusing specifically on special education service delivery to handicapped offenders. It presents an overview of three areas of importance: 1) integrating special education with the criminal justice system; 2) the characteristics and needs of the major populations of handicapped offenders (mentally retarded, learning disabled, behaviorally disordered); and 3) the correctional special education components essential to effective service delivery. In addition, each of these areas is documented with case studies, personal perspectives, and descriptions of existing programs that are bringing positive results. Each chapter is written by an acknowledged specialist in the field. Special attention is paid to the problem of implementation within the confines and constraints of the correctional institution. This includes information for agency and institutional administrators on how to avoid litigation, how to obtain funding, and how to maximize interagency services. Other useful chapters deal with curriculum priorities (e.g., teaching prosocial skills), issues in transition, and training suggestions for teaching handicapped learners in correctional education programs.

Platt, John S. and Clark, Lee. "Correctional Administrators: Are You and Your Clients Getting Your Piece of the Pie?" Journal of Correctional Education 38 (1987): 77-84.

A careful examination of the fiscal reimbursement sources for special education services. Platt and Clark argue that although federal funding has diminished over the years, there are "limited pockets of money potentially available to corrections facilities." Corrections administrators have not actively pursued their rightful share of these funds--partly because they are not aware of them. The authors summarize

the funding potential in P.L. 94-142 (now 98-199), P.L. 89-313, P.L. 99-178 and P.L. 99-177 Chapter 1 Grants, and P.L. 98-524 (the Carl Perkins Vocational Act). They also explain the specific purpose and eligible recipients of these sources, and how they are applicable to the corrections population (e.g., P.L. 89-313 assists in the transition of handicapped students from institutions to the community; P.L. 99-178 and P.L. 99-177 meet the needs of disadvantaged students). A careful examination of the funding plans developed by each state reveals that correctional administrators have a "yet unclaimed gold mine" available. Moreover, through the efficacious use of these resources they have an opportunity to improve their entire program--i.e., all incarcerates benefit from the improved personnel and materials resources. The article provides a set of tables listing state-by-state allocations for fiscal year 1987.

Prison Journal, LXVI(Spring-Summer 1986).

In addition to Miles Santamour's report on the President's Committee on Mental Retardation (see below), which states the objectives for training this disadvantaged group, this issue describes several projects recently completed or underway in California, Pennsylvania, Nebraska, and Texas. The different approaches are presented by the editors as a basis for establishing model programming. At the Camarillo State Hospital (CA), a highly structured behavioral point system, with incentives and rewards, proved useful. In Lancaster County (PA), a clinical team program in which probation case managers jointly supervised former inmates on a daily basis reduced recidivism among MRs to 3-5 percent. In the Nebraska model, non-violent inmates were permitted to live in the community and undergo training with community agency services. And in Texas, sheltered units provided separate services and assistance in making the difficult transition from institutional setting to the community. All of these programs sought alternatives to the present system and reported successful results.

"Recidivism and Intellectual Ability: A Case-Control Study of Offenders Received by Oklahoma Department of Corrections in 1985 and 1986." Photocopy.

The case-control study of recidivism by intellectual ability demonstrated that the mentally impaired do have a relatively higher probability of returning to prison when compared to others in the prison population. A summary of intelligence test scores compiled in 1985 showed that more than 10 percent of the prisoner population had IQ scores of 75 or less. Since that time, Adaptive Learning Center programs have been established to train these offenders in progressive steps to learn basic adult living skills. Initial indications for this study period (February '85-August '86) and sample (1,107 learning disabled inmates; 5,589 inmates with IQs higher than 75) are that persons with an IQ score of 75 or less had 16 percent higher odds of being reincarcerated than did persons with IQ scores higher than 75.

Rutherford, R.B., Nelson, C.M. and Wolford, B.I. "Special Education in the Most Restrictive Environment: Correctional/Special Education." Journal of Special Education 19(1985): 59-71.

In this article, data from a national survey of state departments of correctional and special education relative to the need for, and provision of, these services are presented. Findings indicate that the educational needs of many handicapped adults in correctional programs are not being met. Several factors contribute to this. They include the low enrollment in adult correctional education programs, which tend to be voluntary and to compete with other activities that are more attractive to offenders; the relative lack of interest in complying with P.L. 94-142 or Section 504; the restriction of the federal special education mandate to serving youths aged 22 and under; and the difficulty and expense of designing effective correctional special education programs. On the basis of their analysis, the authors of this article designate six components that are critical to the implementation of meaningful correctional special education programs: 1) procedures for conducting functional assessments; 2) a curriculum that teaches functional academic and daily living skills; 3) the inclusion of vocational education in the curriculum; 4) transitional programs between corrections and the community; 5) a comprehensive system for providing institutional and community services; and 6) inservice and preservice training for correctional educators in special education.

Santamour, Miles B. "The Offender with Mental Retardation." The Prison Journal LXVI(Spring-Summer 1986): 3-19.

This is a report on the findings of the President's Committee on Mental Retardation. It reviews the history of the problem; gives estimates on percentages of retarded inmates. The discrepancy in figures and the problems of identifying retarded offenders stem from IQ tests which reflect cultural orientation and create serious errors in diagnosis. Despite the lack of reliable statistics, however, Santamour reports that a disproportionate number of incarcerated individuals are retarded. Social factors are the primary reason for this. Many offenders come from minority groups and bear the brunt of discrimination in labor markets, housing, education, and health care. Moreover, these individuals are in a disadvantaged position once they enter the criminal justice system. Separate programming and housing for these inmates would reduce administrative problems, and the establishment of individualized treatment programs and a system of community services upon release would reduce recidivism rates.

Santamour, Miles B. and Watson, Patricia S., eds. The Retarded Offender. New York: Praeger, 1982.

This anthology contains 39 papers, most of them presented at the National Training Symposium on the Mentally Retarded and Developmentally Disabled Offender (University of North Carolina, 1980). It is intended to be used as a source of direction and resources for policy makers, program designers, and correctional practitioners. The four major sections of the volume are: 1) overviews of mental retardation and criminal justice;

2) current research and legislation; 3) training and programming; and 4) interagency coordination. Frequently noted in the papers is the current lack of accurate information on the prevalence of MRs in corrections, their adjustment to incarceration, or their access and responsivity to parole. Also noted are the difficulties which plague MR offender research: unrepresentative samples, impaired methodology, and poor generalizability. Much of this is attributable to the fact that virtually all knowledge about this group emanates from descriptive research. Recommendations are made for standardized national evaluations, state-of-the-art treatment models, and a community-based continuum of generic services.

Santamour, Miles B. & West, Bernadette. Retardation and Criminal Justice, A Training Manual for Criminal Justice Personnel. New Brunswick, NJ: New Jersey Association for Retarded Citizens, 1979.

This training manual is an overview of the myths and facts associated with the retarded offender population. Guidelines for identifying the mentally retarded are discussed. They range from impressions--which can be misleading because the mildly retarded offender is often "streetwise" and masks his limitations--to objective diagnostic instruments. Other factors which must be taken into consideration are the individual's work history, speech and language deficits, and indications of maladaptive social behavior. Administrators are cautioned that once evaluations have been made, all records are subject to the Privacy and Security Act limitations. The terms "rehabilitation" and "habilitation" are defined and related to the population in question. Rehabilitation applies to the normal offender and refers to the restoration of socially acceptable values and behaviors. Habilitation, a more appropriate term for retarded offenders, begins with a basic assessment of "where the individual is." In a habilitative program, daily living activities should be taught according to the individual's level of development (i.e., grooming, food preparation, budget management). In addition, recommendations are offered for counseling techniques. Studies indicate that individual counseling may be more difficult than group counseling because the retarded offender is often resistive to the counselor. Moreover, since he/she generally has feelings of isolation, group counseling provides a common bond and an opportunity for shared experience which assist in the development of social awareness. Finally, there is a brief survey of legal matters applicable to this special group of offenders. It includes a list of relevant court decisions and summarizes their implications for full citizenship rights.

Sourcebook on the Mentally Disordered Prisoner. Washington, DC: U.S. Department of Justice, National Institute of Corrections, March 1985.

States the problems, obligations, and guidelines attendant upon professional service delivery for training this particular group of inmates. Defines "mentally disordered prisoners" as those who are mentally ill, mentally retarded, developmentally disabled, or act in a disturbing fashion which is not clinically considered "mental illness." This classification does not include those found incompetent to stand trial if they are placed in a facility other than correctional. A complete case law review follows, as well as two analyses of professional standards--on legal

questions and administrative questions respectively. It has been argued that standards will help administrators run prisons less stressfully. Moreover, budgetary problems have been lessened through creative budget packages formulated by interagency agreements. It reports that at present most states utilize "special needs" units to satisfy the basic legal requirements for care. In conjunction with the guidelines for setting up these training programs, this monograph enumerates those inmate rights pertaining to disclosure, confidentiality, and the modalities of restraint regarding isolation, physical, or chemical techniques. In all, careful monitoring and evaluating by facility managers should have long-term benefits for both the clientele and the outside community.

Steelman, D. The Mentally Impaired in New York's Prisons: Problems and Solutions. New York, NY: The Correctional Association of New York, 1987.

This monograph is the result of a statewide study of mentally impaired inmates in the New York facilities. Steelman reports that there was considerable difficulty in the evaluation process, but that at least 20 percent of the population was diagnosed as having some form of learning disability, mental disorder, or a combination of both. Overcrowding and budget restrictions were cited as the two largest impediments to special education programming. Also, there is not sufficient standardization in the testing procedures to make accurate assessments. It is suggested that the barriers to rehabilitation of handicapped offenders have a severe impact on these individuals, that they leave prison less prepared to trust others, and that they consequently regard society as life-threatening.

Texas Planning Council for Developmental Disabilities. "The Developmentally Disabled Offender in Texas." Report to the Texas Council on Crime and Delinquency, 1984. Austin, TX: Planning Council, 1984.

A study on adult offenders with developmental disabilities, their legal rights, and the treatment they receive within the criminal justice system. The report reviews how the system relates to these people and makes recommendations on how to improve services. It strongly suggests that community-based correctional programs be developed as alternatives to incarceration for offenders. Data in the report were derived from a survey of local practices in five Texas counties, information from state agencies and other providers, a review of the correctional services in the U.S. and Canada, and literature in the field. Its findings were presented to police and parole officers, judges, attorneys, and state agency personnel.

Tindall, Lloyd W. Vocational Education Models for Linking Agencies Serving the Handicapped: Status Report of Interagency Linkages at the State Level. Madison, WI: Vocational Studies Center, 1981.

This elaborately detailed manual specifies the procedures for linking agencies in training programs. Sample worksheets illustrate how administrators can process budgeting, staffing, planning, monitoring, and evaluating requirements. Facilitating factors, such as technical assistance systems, are classified so that the service delivery can be as

cost-effective as possible. State and local human-service activities are enumerated, with recommendations accompanying each link in the system. For example, certification requirements for staff are listed according to area of expertise (special education, counseling and guidance, etc.). Methods for assessing the cost effectiveness of the programs include follow-up data comparing local employment statistics of handicapped vocational graduates with those of general population, non-handicapped graduates, and untrained handicapped persons. The technical assistance activities are analyzed with reference to particular participants (i.e., local education agencies, consumer and advisory council agencies) and include the following: a) developing a model; b) performing a needs assessment; c) identifying goals and objectives; d) implementing plans; and e) evaluating linkage efforts.

Weiner, Roberta and Hume, Maggie. ...And Education for All: Public Policy and Handicapped Children. Alexandria, VA: Education Research Group, 1987.

A comprehensive overview of P.L. 94-142, its legislative, regulatory, and litigation history. The text provides a copy of the Act in its entirety, as well as a state-by-state resource directory and federal telephone directory of key officials in all U.S. Dept. of Education special education offices. The core of the text addresses the problems (primarily fiscal) related to special education programming and discusses the remedies that may avoid the continuation of these problems. There is also a survey of new directions in identification and diagnosis of learning disability. These include: a) re-evaluations of testing procedures which have been traditionally insensitive to racial and ethnic bias; and b) the recent emphasis on using learning disability as a less stigmatizing criterion than the mentally retarded classification. Given the new classification, each year more and more individuals are being identified as learning disabled. Consequently, they require better individualized programming services than are currently being offered.

Zimmerman, J., Rich, W., Keilitz, I., and Broder, P. "Some Observations on the Link Between Learning Disabilities and Juvenile Delinquency." Journal of Criminal Justice 9(1981): 1-17.

In order to test the hypothesis that learning disabilities are related to juvenile delinquency, 1,005 public school and 687 adjudicated juvenile delinquent youths were screened and tested in those cases where learning disability could not be discounted. Self-report data showed that there was no difference in delinquent behaviors engaged in by learning-disabled and non-learning disabled youth. Moreover, charges for which both categories were convicted followed the same patterns. Given these findings, it was proposed that the way learning-disabled youth are treated within the juvenile justice system accounts for the fact that there is a greater proportion of this group within the corrections system. It is recommended that greater attention, in the form of "different treatment," be provided to this group. That is, the learning disabled youth should be treated differently for the same delinquent behavior.

GLOSSARY

ACADEMIC ACHIEVEMENT. Scholastic skills, abilities, and knowledge a student has mastered.

ACADEMIC APTITUDE. Combination of abilities and potential necessary to achieve in schoolwork. Also called "scholastic aptitude" and "academic potential."

ACHIEVEMENT TEST. Test designed to measure a person's knowledge, skills, and understanding in a subject matter area.

ADAPTIVE BEHAVIOR. Degree to which an individual meets standards of self-sufficiency and social responsibility for his or her age-related cultural group. Intellectual, physical, motor, motivational, social, and sensory factors in various combinations contribute to the total adaptive process. Poor adaptive behavior is one characteristic of mental retardation.

AFFECTIVE EDUCATION. Refers to training and cultivation of desirable feelings or emotions, or treatment and remediation of undesirable feelings and emotions, by using instructional methods and/or providing experience.

AGE EQUIVALENT. Test score converted into years, months, and days which reflects an average score for that age group.

AGRAPHIA. Disability in writing, usually associated with failure to recall the format of words or sentences in order to connect them to motor movements. Usually caused by neurological impairment or disturbance in visual motor integration.

APHASIA. Inability to understand or comprehend language and expression of words, letters, and symbols due to sensori-motor impairment. Failure in comprehension of speech is known as Sensory Aphasia. Inability to express one's ideas or concepts is known as Motor Aphasia or Expressive Aphasia.

APTITUDE. Potential, inborn or learned, for a specific occupation, task, or area of study. Aptitude tests measure readiness for specific work or study and predict success or failure on specific tasks.

ASSESSMENT. Comprehensive appraisal of strengths and weaknesses of a person's learning and types of behavior.

AUDITORY ASSOCIATION. Ability to organize words or symbols presented orally through the use of the associative channel of language processing. Also see Auditory Imperception.

AUDITORY IMPERCEPTION. Partial or complete failure to recognize, differentiate, and interpret information received through hearing.

BASAL POINT. Level, described in terms of years and months, which represents a given number of consecutive test items to which a subject responds correctly. The purpose of a Basal Point is to start a test at the level of a subject's capacity rather than starting from the beginning.

BEHAVIOR. In clinical terms, refers to verbal or motor responses of an individual to environmental stimuli. It is observable, reportable, and measurable.

BEHAVIOR ANALYSIS. Diagnostic methodology used to analyze specific changes in an individual's behavior.

BEHAVIOR CHECKLISTS. Instruments containing a number of behavior terms used to collect data on specific or general behavioral characteristics of a person for psycho-educational diagnostic purposes. A teacher, a parent, or any adult who has intense interaction with the child reports his observations on one of the lists. Also see BEHAVIOR DISORDERS.

BEHAVIOR DEFICITS. Specific adaptive attitudes or skills an individual has not learned. Examples of Behavior Deficits are specific task skill deficits, deficits in independent living, and deficits in frustration tolerance.

BEHAVIOR DISORDER. Condition in which conduct is inappropriate, disruptive, or destructive.

BEHAVIOR MANAGEMENT. Techniques used to control and/or modify a person's responses to environmental stimuli in accordance with the prescribed standards, norms, or mores.

BEHAVIOR MODIFICATION. A training technique to eliminate negative behaviors and to teach and reinforce positive ones, frequently through a controlled learning environment and/or system of rewards and penalties.

BEHAVIOR RATING SCALES. Instruments that list specific observable behaviors and provide for the ranking of their severity or importance. Rating scales are one approach to identifying and assessing children with emotional and/or behavioral problems.

BEHAVIOR THERAPY. Treatment of emotional and behavioral problems based on learning theory or principles of conditioning, in which the primary objective is to modify these problems. This therapy is based on the premise that maladaptive habits can be changed and appropriate behaviors can be learned.

BEHAVIORAL OBJECTIVE. A statement of expected learning accomplishment for the child. It must meet four criteria: (1) stating what the learner will do; (2) stating this in measurable terms; (3) stating under what conditions the performance will be demonstrated; and (4) including the criteria for judging the quality of a student's performance

(example: The student will recite the letters of the alphabet in correct order with no more than two errors).

BEHAVIORISM. School of psychology which concentrates on the investigation and treatment of observable behavior.

BRAIN DYSFUNCTION. Neurosensory impairment of the operation of the brain causing problems or inability to perform specific tasks.

CARL D. PERKINS VOCATIONAL EDUCATION ACT - P.L. 98-524. In 1984 this Act was signed into law. It provides for a number of revisions to earlier vocational education legislation. It allows for stronger matching and excess costs provisions and guarantees greater access to and recruitment of handicapped students to a full range of programs.

CEREBRAL DOMINANCE. Primary control of one hemisphere of the brain over the other in initiating or controlling bodily movements. Normally, dominance resides in the left hemisphere in a right-handed person and in the right hemisphere in a left-handed person.

CEREBRAL DYSFUNCTION. Partial disturbance, impairment, or abnormality of the functioning of the brain.

CHARACTER DISORDERS. Personal characteristics not consistent with social norms.

COGNITION. Gaining knowledge through personal experience or understanding that extends beyond mere awareness.

COGNITIVE SKILLS. The development of an individual's abilities to process experience into knowledge and understanding.

COGNITIVE STYLE. Approach an individual uses consistently in problem solving and thinking tasks.

COMPETENCY. For the retarded offender, this refers to one's ability to cooperate with one's attorney in preparing one's defense and the necessary awareness and understanding of the consequences of those proceedings.

CONCEPTUAL DISORDERS. Difficulties in generalizing, abstracting, and reasoning, as well as storing and retaining past experiences.

CONGENITAL. A condition or handicap which is present in an individual at birth.

COUNSELING SERVICES. These are services provided by school psychologists, guidance counselors, social and/or case workers, or other qualified personnel.

CRITERION REFERENCED. Term describing tests designed to measure specific knowledge or content a student has learned and not learned, in contrast to norm-referenced tests, which compare an individual's performance to that of a norm group.

CURRICULUM. Systematic grouping of activities, content, and materials of instruction.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT (P.L. 98-527). Federal law which, as amended, authorizes grant support for planning, coordinating, and delivering specialized services to persons with developmental disabilities.

DEVELOPMENTAL DISABILITY. A severe, chronic handicap which (A) is attributable to a mental or physical impairment or combination of mental or physical impairments; (B) is manifested before the person reaches age 22; (C) is likely to continue indefinitely; (D) results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic sufficiency; and (E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

DEVELOPMENTALLY HANDICAPPED. This term is sometimes used to describe the mentally retarded.

DISABILITY vs. HANDICAP. The difference between these terms is the following: "disability" is a clinically diagnosable mental or physical problem; "handicap" is the degree to which the disability prevents the person from functioning. However, the terms are sometimes used interchangeably.

DUE PROCESS. Principle of law guaranteeing opportunity to protest and be heard prior to government action. In special education this assures parents and handicapped children a hearing before placement or reassignment in special education.

DYSFUNCTION. Partial disturbance, impairment, or abnormality in a particular bodily function.

DYSGRAPHIA. Impaired ability to write; often associated with neurological dysfunction.

DYSLEXIA. Impairment in reading ability; often associated with cerebral dysfunction. An individual with this condition does not understand clearly what he or she reads.

EDGAR. Education Division General Administrative Regulations. Adopted in 1980 by the Office of Special Education. The EDGAR regulations contain provisions for the monitoring of agencies, institutions, and organizations responsible for carrying out special education programs. They also require the correction of deficiencies in program operations that are identified through the monitoring process (43 C.F.R. 76.101[e]).

EDUCABLE MENTALLY RETARDED. A previously common classification, still used in some state laws, for an individual whose general intellectual functioning and social adaptation are mildly impaired due to medical or social disability. IQ range: 55-69.

EDUCATION FOR ALL HANDICAPPED CHILDREN ACT of 1975 (P.L. 94-142). In order to fund the excess costs of educating handicapped students, this Act was implemented in 1977. By 1980 the age range was extended to 21 (originally 3-18 year olds).

EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC). A national information system supported by the U.S. Department of Education to identify, select, process, and disseminate information in education. ERIC has a network of 16 clearinghouses that serves specialized fields of education.

EDUCATIONALLY HANDICAPPED. Individuals who face severe problems in learning academic work due to organic, psychological, or environmental factors.

EMOTIONALLY DISTURBED. See SERIOUSLY EMOTIONALLY DISTURBED.

ERIC. See EDUCATIONAL RESOURCES INFORMATION CENTER.

ETIOLOGY. The study of causes or origins of a disease or condition.

EVALUATION. Process of arriving at a judgment regarding learning tasks or behavioral levels of a subject as objectively as possible by using information derived from various sources.

EXCEPTIONAL. In special education, this terminology encompasses any student whose performance deviates from normal; it includes the range from gifted and talented to severely mentally retarded.

FREE APPROPRIATE PUBLIC EDUCATION. Key requirement in P.L 94-142 which assures an educational program for all children without cost to parents, in the least restrictive environment.

GRADE EQUIVALENT. Converted score indicating the assigned grade value for which that score is the real or estimated average score. Usually a grade equivalent score is expressed in full years and tenths denoting the number of months by assuming an academic year of 10-month duration. A grade equivalent of 2.7 is interpreted as the 7th month of grade 2.

GRADE LEVEL. Educational maturity designated by the school grade corresponding to average achievement record. Usually, grade level can be established by subtracting 5 from chronological age.

GROSS MOTOR ACTIVITY. Task requiring massive or coarse physical or motor ability, e.g., throwing a ball, jumping, skipping, or running.

HABILITATION. Differs from "rehabilitation" as a term more applicable to the retarded individual. It is defined as the process of locating

the level of the retarded individual's knowledge and skills and the development of a plan which proceeds from that particular level toward higher levels of independence. In other words, beginning "where the individual is."

HYPERACTIVE. Describes behavior characterized by abnormal, excessive activity or movement. Such activity may interfere with a child learning and cause considerable problems in managing behavior.

IDENTIFICATION. The activities designed to locate handicapped students, or students suspected of being handicapped.

IEP. See INDIVIDUALIZED EDUCATION PROGRAM.

IMMEDIATE REINFORCEMENT. Praise or other forms of reward given directly after successful completion of a new learning activity.

IMPAIRMENT. This term is synonymous with disability.

INCOMPETENT. This legal category applies to those individuals whose trial is postponed or interrupted because either : a) their competence to stand trial has been questioned and must therefore be evaluated; or b) they have been found incompetent to stand trial.

INDIVIDUAL INSTRUCTION. Teaching and study approaches selected specifically for adaptation to a given pupil's interests, needs, and abilities.

INDIVIDUALIZED EDUCATION PROGRAM (IEP). Component of Public Law 94-142 requiring a written plan of instruction for each child receiving special services, giving a statement of the child's present levels of educational performance, annual goals, short-term objectives, specific services needed by the child, dates when these services will begin and be in effect, and related information.

INDIVIDUALLY PRESCRIBED INSTRUCTION. Teaching based on an individualized education or habilitation plan.

INSANE. This legal category applies to those individual who, though competent to stand trial, have nonetheless been found not guilty by reason of insanity.

INSTRUCTIONAL OBJECTIVES. Essential short-term steps between a child's present level of performance and the broader annual goal.

INSTRUCTIONAL STRATEGIES. Planned specific methods and materials used in teaching the pupil.

INTELLIGENCE TESTS. These are instruments that measure the cognitive/intellectual level of functioning as determined by the presence of sensory or physical handicaps. Examples: Wechsler Adult Intelligence Scale-Revised (WAIS-R); Slosson Intelligence Test; Stanford-Binet Intelligence Scale.

INTERDISCIPLINARY. A process in which professionals from different areas participate, i.e., for the purposes of psycho-educational diagnosis.

INVENTORY. Questionnaire or checklist used to elicit pertinent information; may be used to measure personality characteristics.

LABELING (OR LABELLING). Practice of attaching a generalized name to a handicapping condition--such as: "mentally retarded," or "learning disabled." Labels may entitle individuals to special services but carry the risk of creating stigmas.

LEARNING DISABILITY. See SPECIFIC LEARNING DISABILITY.

LEARNING DISORDERS. Problems in learning academic subjects and in fine and gross motor activities. Should not be used interchangeably with Learning Disabilities.

LEARNING HANDICAPPED. An individual who has problems in academic achievement in spite of normal or above normal intellectual ability. Abbreviated as LH.

LEARNING MODE. This refers to the ways of receiving information, i.e., visual, auditory, kinesthetic, olfactory, or taste, in any combination. The mode of responding to information may be motoric and/or oral.

LEAST RESTRICTIVE ENVIRONMENT. A requirement in P.L. 94-142 to place handicapped students where they will have as much involvement with nonhandicapped pupils as appropriate while, at the same time, providing the pupil with an individualized educational program.

MAINSTREAMING. The practice of placing handicapped students with nonhandicapped peers for all or part of the school day, as opposed to educating them in self-contained classrooms.

MENTALLY DISORDERED OFFENDERS. This classification applies to that group of inmates who are found to be incompetent, insane, guilty but mentally ill, or committed as "abnormal offenders."

MENTALLY RETARDED This impairment is characterized by significantly subaverage intellectual functioning, existing concurrently with deficits in adaptive behavior. It is manifested during the developmental period and adversely affects a child's educational performance.

MULTIDISCIPLINARY. An approach of psycho-educational diagnosis in which professionals from several different disciplines (i.e., psychology, medicine, education) participate.

NEUROLOGICAL EXAMINATION. Process of identifying the localization of impairment in the central nervous system in order to trace the possible cause or causes of learning or behavior disorders or developmental disability.

NEUROLOGICALLY HANDICAPPED. Persons having problems in learning and behavior due to severe impairment in the central nervous system.

ORAL COMMUNICATIONS SKILLS. Basically, these consist of two areas: speaking skills, which focus on communicating meaning to others; and listening skills, which focus on understanding, acting upon, and acknowledging others' oral communications.

P.L. 94-142. See EDUCATION FOR ALL HANDICAPPED CHILDREN ACT.

PERCEPTUAL DISORDERS. Difficulties or deficiencies in using the sense of sight, touch, smell, taste, or hearing to correctly recognize the various objects or situations within the environment. Such disorders may become apparent in a student's poor performance in activities such as drawing, writing, and recognizing forms, sizes, or shapes.

PERFORMANCE TEST. Measure involving motor or manual response on the examinee's part used in assessment and/or diagnosis.

PERIODIC REVIEW. Those activities involved in reviewing each student's IEP and, if appropriate, revising its provisions. A meeting must be held for this purpose at least once a year.

PLACEMENT. Process of assigning a grade, class, or program appropriate to a student's intellectual level, academic performance, and/or handicapping condition.

PROCEDURAL DUE PROCESS. This refers to certain procedures that ensure the rights of the handicapped and their parents once they have been referred for special education evaluation and services.

PSYCHOLOGICAL TESTS. Instruments designed to assess one's behavior, day-to-day interaction with people, emotional state, personality traits, and intellectual functioning. Examples: AAMR Adaptive Behavior Scale; Vineland Social Maturity Scale.

READING COMPREHENSION. The ability to understand and relate the meaning of what one has read.

READING DISABILITY. Inability to read at the achievement level for one's chronological age. Usually considered as being a significant disability if reading level is more than one level below grade level placement.

REALITY THERAPY. Treatment method emphasizing behavior in the real world and the client's responsibility for his or her behavior. The therapy teaches coping behavior in the client's environment without removal to another setting for treatment.

REFERRAL. The process of informing a clinic, school, medical doctor, or other appropriate specialist about an individual for the purpose of evaluation or treatment.

REHABILITATION ACT OF 1973 (P.L. 93-112). Federal legislation that expanded federally funded rehabilitation services to the severely disabled. This law contains Section 504, which prohibits discrimination on the basis of handicap in all federally assisted programs.

REHABILITATION. Process of restoring a nonproductive or deviant person to socially acceptable standards. See HABILITATION.

RELATED SERVICES. These are services rendered to assist a handicapped student in a special education program. In general, they include such things as occupational therapy, counseling, therapeutic recreation, specialized transportation equipment--as well as the transportation itself. Related services are distinguished from "medical services" by the following: the deciding factor is not whether the service is performed by a physician, but whether it is necessary to enable the student to benefit from the special education.

REMEDIAL. Training in a specific field, such as reading or mathematics, designed to remedy weak skills.

RESOURCE ROOM. Specially equipped and managed school setting where a teacher with special training instructs students with special needs for designated time periods.

RESOURCE TEACHER. Specialist who works with students with special needs, who serves as consultant to the regular classroom teachers, and/or staffs a "resource" room or center.

RIGHTS OF FULL CITIZENSHIP. It was mandated by the President's Committee on Mental Retardation, 1975, that certain rights (to education, to life and survival, to vote, to manage one's affairs, etc.) may not be denied without proof that they violate the well-being of society in some way.

SCREENING. Abbreviated testing procedures conducted on a large scale to locate persons requiring more detailed testing or specialized teaching.

SECTION 504. This is the provision within the Vocational Rehabilitation Act that applies to all handicapped Americans regardless of age. It mandates that "No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

SELF-CONTAINED CLASSROOM. Special education setting that provides all the instructional needs of handicapped children.

SERIOUSLY EMOTIONALLY DISTURBED. A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree: a) an inability to learn that cannot be explained by

intellectual, sensory, or health factors; b) an inability to build or maintain satisfactory interpersonal relationships with peers or teachers; c) inappropriate types of behaviors under normal circumstances; d) a pervasive mood of unhappiness or depression; or e) a tendency to develop physical symptoms or fears. Children who are schizophrenic are included in this category; socially maladjusted children are not included, unless it is determined that they are seriously emotionally disturbed.

SEVERELY HANDICAPPED. A condition in which the individual may experience severe speech, language, and/or perceptual-cognitive deprivations, and evidence abnormal behaviors such as: failure to respond to pronounced social stimuli; self-mutilation; self-stimulation; intense, prolonged temper tantrums; the absence of rudimentary forms of verbal control; extremely fragile physiological conditions.

SEVERELY MENTALLY RETARDED. The classification for an individual whose general functioning and social adaptation are minimal. IQ range: 30 and below.

SHELTERED WORKSHOP. Facility that provides individuals who are not able to work in competitive employment an opportunity to work in a controlled environment at their level of functioning.

SOCIAL COMPETENCE. The ability to function adequately in society; more specifically, including grooming, eating, etiquette, and social graces.

SPECIAL EDUCATION. A broad term covering programs and services for exceptional children who deviate so far physically, mentally, or emotionally from the normal that they require unique learning experiences, techniques, or materials in order to be maintained in the regular classroom, and specialized classes and programs if the problems are severe. As utilized in P.L. 94-142, the term means "specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions."

SPECIALLY DESIGNED INSTRUCTION. This is the key phrase in the P.L. 94-142 definition of "special education," and it involves instruction that is designed to meet the unique needs of the handicapped.

SPECIFIC LEARNING DISABILITY. A disorder that involves one or more processes in which the understanding or use of language (spoken or written) manifests itself in an imperfect ability to listen, think, speak, read, write, or do mathematical calculations.

SPEECH AND LANGUAGE IMPAIRED. Communication disorders of impaired language, voice fluency or articulation to such a degree that academic achievement is invariably affected and the condition is significantly handicapping to the affected person.

SPEECH PATHOLOGY. The field of diagnosis and treatment of speech problems.

SPEECH THERAPY. A planned program to improve or correct problems in oral communication.

STANDARDIZED TEST. Tests that give results compared to a very large norm group. These may be expressed in grade equivalent, percentile, or stanine scores.

SURROGATE PARENT. As used in P.L. 94-142, person serving in lieu of a parent or guardian in all instances where parental involvement is mandated.

TASK ANALYSIS. As process, the breaking of behavioral objectives into smaller, teachable steps; as product, the sequence of steps that result in the long-term objective behavior being learned. Each IEP should contain a task analysis.

TOTAL SERVICE PLAN. The part of the Individualized Education Program (IEP) that describes long-term goals and strategies for both instruction and related services, and recommends placement.

TRAINABLE MENTALLY RETARDED (TMR). Term introduced in state educational codes to define children who are not able to profit suitably from classes for the educable mentally retarded. Trainable mentally retarded children score lower than three standard deviations below the mean on individually administered intelligence tests and generally have an intellectual ability that is from one-third to one-half that of an average child of comparable chronological age and an IQ from 25 to 50.

VISUAL MEMORY. Ability to recall visual stimuli after a lapse of time. Visual memory is important in academic achievement and impairment results in learning disorders.

VISUAL MOTOR COORDINATION. The ability to combine vision with movement of the body or its parts. This is a necessary skill in many academic areas including handwriting, mathematics, and physical education.

VOCATIONAL COUNSELING. Discussions with a specially trained person that concentrate on the selection of an occupation, including the education or training needed to prepare for the occupation selected, and in seeking, making application, and obtaining employment.

VOCATIONAL GUIDANCE. An organized program to assist pupils in choosing, securing training for, and becoming successfully employed in an occupation for which their abilities qualify them.

VOCATIONAL REHABILITATION. The service of providing diagnosis, guidance, training, physical restoration, and placement to disabled persons for the purpose of preparing them for and involving them in employment that helps them to live with greater independence.

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Appendix A

Agencies Supplying Information to Project

State	DOC[1]	SEA[2]	SPAA[3]	DDPC[4]	SMR[5]	ARC[6]	UNIV[7]	TOTAL
AL	X	X	X	X	X			5
AK				X	X			2
AZ	X	X		X				3
AR	X	X		X	X			4
CA	X	X		X	X			4
CO				X		X		2
CT	X	X	X	X	X			5
DE	X	X			X	X		4
DC	X	X					X	3
FL	X	X		X	X	X		5
GA	X			X	X			3
HI			X		X			2
ID	X			X				2
IL	X			X				2
IN		X		X	X	X		4
IA	X				X		X	3
KS			X	X			X	3
KY	X	X		X	X			4
LA			X	X	X			3
ME			X	X	X			3
MD	X	X	X	X	X		X	6
MA	X	X	X	X	X	X		6
MI	X	X		X				3
MN	X	X		X	X			4
MS		X	X		X	X		4
MO	X	X	X	X	X		X	6
MT	X	X		X				3
NE			X	X	X		X	4
NV		X	X		X			3
NH				X	X			2
NJ	X			X	X	X		4

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1. Departments of Correction
2. State Education Agencies
3. State Advocacy and Protection Agencies
4. Developmental Disabilities Planning Councils
5. State Mental Health/Retardation Agencies
6. State Associations of Retarded Citizens
7. University Affiliated Facilities

State	DOC	SEA	SPAA	DDPC	SMR	ARC	UNIV	TOTAL
NM	X		X	X				3
NY	X	X	X				X	4
NC	X				X		X	3
ND		X	X	X	X			4
OH	X	X		X	X			4
OK	X	X						2
OR				X				1
PA	X		X	X	X			4
RI	X		X		X			3
SC	X	X	X	X	X			5
SD		X		X		X		3
TN	X			X	X		X	4
TX	X	X	X	X				4
UT				X				1
VT		X		X				2
VA		X		X	X			3
WA	X			X				2
WV		X		X		X	X	4
WI	X	X		X				3
WY				X	X			2
TOTAL	32	29	19	41	32	9	10	172

Appendix B

Number and Type of Staff Interviewed on Site

	MD	IL	TX	MI	GA	CA	SC
DOC Commissioner/ Deputy Commissioner	1			1	1		1
Warden/Deputy Warden	7	2	2	2	1		1
Classification	7				1		1
DOC Special Education Coordinator	3	2	1	2	1		1
State Director of Correctional Education	2		1	1	1		1
Special Education Teacher	7	1	5	4	2	2	3
Principal	7	2	2	1	1	1	1
Psychologist (Psychiatrist)	5		2	1		1	1
Inmate Students	18	9	5	5	4		5
Security Staff	1		6		1		1
SEA Director of Spec. Educ.	1						
SEA Coordinator with DOC	1			1			
SEA Monitor	5			2			
Counselors and Case Managers	4	2	4		2	1	2
Vocational Instructors		17	12	5	2		1
Other	3	4	2	1	1	2	

TOTAL = 223

Appendix C

Court Case Citations

Alexander v. Choate, 105 S. Ct. 712 (1985)

Aripa v. Department of Social and Health Services, 588 P.2d 185 (Wash. 1978)

Batton v. North Carolina, 501 F. Supp. 1173 (1980)

Bishop v. McCoy, 323 S.E.2d 140 (W.Va. 1984)

Blaney v. Commissioner of Correction, 372 N.E.2d 770 (Mass. 1978)

Board of Education v. Rowley, 458 U.S. 176 (1982)

Campbell v. Board of Education, 518 F. Supp. 471 (1981)

Cooper v. Gwinn, 298 S.E.2d 781 (W.Va. 1982)

Cooper v. Morin, 398 N.Y.S.2d 36 (N.Y. Sup. Ct. 1977)

Debra P. v. Turlington, 644 F.2d 397; 654 F.2d 1079 (1981)

French v. Heyne, 547 F.2d 994 (1976)

Geis v. Board of Education, 774 F.2d 575 (1985)

Glover v. Johnson, 510 F. Supp. 1019 (1981)

Green v. Johnson, 513 F. Supp. 965 (1981)

Grove City College v. Bell, 104 S. Ct. 1211 (1984)

In re Barnes, 221 Cal. Rptr. 415 (Cal. App. 1985)

Kendrick v. Bland, 541 F. Supp. 21 (1981)

Lintz v. Commonwealth Department of Education, 510 A.2d 922 (Commonwealth Ct. Pa 1986)

Madyun v. Thompson, 657 F.2d 868 (1981)

Miener v. Missouri, 800 F.2d 749 (1986)

Nelson v. Collins, 455 F. Supp. 727 (1978)

New Mexico Association for Retarded Citizens v. State of New Mexico, 678 F.2d 847 (1982)

Newman v. Alabama, 559 F.2d 283 (1977)

Palmigiano v. Garrahy, 639 F. Supp. 244 (1986)

Peeler v. Heckler, 781 F.2d 649 (1986)

Rhodes v. Chapman, 452 U.S. 337, 348 (1981)

Ruiz v. Estelle, 503 F. Supp. 1265 (1980), modified, 679 F.2d 1115 (1982)

Rust v. State, 582 P.2d 134 (Alk. 1978)

St. Louis Developmental Disabilities Treatment Center Parents Association v. Mallory, 591 F. Supp. 1416, affirmed 767 F.2d 518 (1985)

Southeastern Community College v. Davis, 442 U.S. 397 (1979)

State v. Evans, 506 A.2d 695 (N.H. 1985)

Stock v. Massachusetts Hospital School, 467 N.E.2d (1984)

Tatro v. Texas, 625 F.2d 557 (1980), on remand, 516 F. Supp. 968 (1981), affirmed, 703 F.2d 823 (1983)

Timms v. Metro School District, 722 F.2d 1310 (1983)

Wojtczak v. Cuyler, 480 F. Supp. 1288 (1979)

Appendix D

Forms Used for Documenting the Programming Process

Sample copies supplied by the Maryland Department of Education

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MARYLAND STATE DEPARTMENT OF EDUCATION
CORRECTIONAL EDUCATION

Special Education Monthly Report

Institution _____ Month _____

Total number of active Special Education students _____

Total number students in Special Education process _____

Number of active students in segregation or protect. cust. _____

Number of potential students on segr. or p.c. _____

Transfers of active students into program _____

Transfers of active students out of progr (to other prison) _____

Otherwise unavailable for services (specify) _____

Dismissed (Exited) _____

ARD ACTIVITY DURING THE MONTH

Number of students screened _____

Number of students to be assessed _____

Number of students determined eligible (for IEP develop) _____

Number of students determined ineligible _____

Number of new IEP's _____

Number of revised IEP's _____

Number of 60 day reviews _____

Number of Annual Reviews _____

Number of Special Reviews _____

ACTIVE SPECIAL EDUCATION STUDENTS BY NAME, NUMBER, AND STATUS

Name	No.	Status/Level	Name	No.	Status/Level

Revised: 1987 PLEASE SUBMIT THIS REPORT TO CENTRAL OFFICE

260

POTENTIAL SPECIAL EDUCATION STUDENTS BY NAME, NUMBER AND STATUS

INDICATE: to be screened; to be assessed; to receive eligibility determination, or to receive IEP.

NAME	NO.	STATUS

DATE SUBMITTED

SUBMITTED BY

FACSIMILE

ARD - PROTECTION IN PLACEMENT CHECKLIST

MARYLAND STATE DEPARTMENT OF EDUCATION/CORRECTIONAL EDUCATION

NAME: _____

NUMBER: _____ DATE OF BIRTH: _____

COMPLETED	DATE	
		INITIAL REFERRAL RECEIVED
		SCREENING COMMITTEE ACTION
		I.E.P. HANDBOOK REVIEWED
		CONSENT TO TEST
		WAIVER
		CONSENT TO OBTAIN INFORMATION
		ARD MEETING NOTIFICATION
		ASSESSMENT DATA REPORTED
		ARD MEETING PLACEMENT
		I.E.P. APPROVED
		I.E.P. COPY TO RESIDENT/GUARDIAN
		I.E.P. IMPLEMENTED
		60 DAY REVIEW
		M.S.D.E. NOTIFICATION
		ANNUAL REVIEW

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ARD MEETING

DATE: _____

TIME	STUDENT	NUMBER	READING TCHR	MATH TCHR.	OTHER TCHRS.	REASON FOR REFERRAL

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MARYLAND STATE DEPARTMENT OF EDUCATION/CORRECTIONAL EDUCATION

SPECIAL EDUCATION SCREEN FOR INMATES

UNDER 21 YEARS OF AGE

Please fill out this form for all inmates 20 years of age or less. If you do not suspect a handicapping condition, please check the category for "no handicapping conditions suspected". Be sure to complete the blanks on name and postion of assessor.

Inmate's Name_____ DC No. _____ D.O.B._____

Medical Assessor: _____ Position _____ Date_____

Educational Assessor: _____ Position_____ Date_____

Psychological Assessor: _____ Position_____ Date_____

(Please check one or more of the appropriate boxes below.)

Medical

( ) Vision Impaired
( ) Hearing Impaired
( ) Orthopedically Impaired
( ) Speech Impaired
( ) Other Health Problems

_____

_____

( ) No Handicapping Conditions Suspected

Psychological

( ) History of Psychiatric Commitments
( ) Possible Emotional Disorder
( ) Possible Learning Problems
( ) Others (Specify below)

_____

_____

( ) No Handicapping Conditions Suspected

Educational

Reading Comprehension_____Grade Equivalent
Math Computation_____Grade Equivalent
( ) Difficulty in Reading, Math, or Language Arts
( ) No Handicapping Conditions Suspected

Hearing Screening Form				
Frequency	500Hz____dB	1000Hz_____dB	2000Hz____dB	4000Hz_____dB
Right Ear				
Left Ear				
_____Within Normal Limits		_____Refer for Further Testing		

If a handicapping condition is suspected, briefly describe the reasons.

_____

_____

****

State and federal law mandates special education service for all students, regardless of location, up to the age of twenty-one years of age, if a handicapping condition is determined. Any person can make a referral, but only a certified or licensed professional can perform an individual assessment designed to eliminate the possibility of a handicapping condition or determine that a handicapping condition exists. All referrals for consideration for special education services are reviewed by an admissions, referral and dismissal committee at the institution at which an inmate is confined. Full assessment, if needed, will be arranged by this committee.

PLEASE SEND THIS FORM TO THE EDUCATION DEPARTMENT UPON COMPLETION

MARYLAND STATE DEPARTMENT OF EDUCATION/CORRECTIONAL EDUCATION

SCREENING REFERRAL: COMPREHENSIVE TEACHER'S RATING SCALE

Student's Name and DOC #: _____ Date: _____

Student's Birthdate: _____

Teacher's Name: _____ Subject: _____

School: _____

	BEHAVIOR ITEM	ALMOST NEVER				ALMOST ALWAYS
1.	Works well independently	1	2	3	4	5
2.	Persists with task for reasonable amount of time	1	2	3	4	5
3.	Completes assigned task satisfactorily with little additional assistance	1	2	3	4	5
4.	Follows simple directions accurately	1	2	3	4	5
5.	Follows a sequence of instructions	1	2	3	4	5
6.	Functions well in the classroom	1	2	3	4	5
7.	Demonstrates attentional efficiency to visual stimuli	1	2	3	4	5
8.	Demonstrates deficits in short-term memory and immediate recall	1	2	3	4	5
9.	Demonstrates deficits in the acquisition of linguistic processing	1	2	3	4	5
10.	Demonstrates deficits in auditory memory	1	2	3	4	5
11.	Demonstrates deficits in visual memory	1	2	3	4	5
12.	Expresses thoughts and ideas satisfactorily	1	2	3	4	5
13.	Retrieves words and formulates sentences easily	1	2	3	4	5
14.	Demonstrates poor use of word attack skills	1	2	3	4	5
15.	Lacks interest, poor motivation	1	2	3	4	5
16.	Poor concentration	1	2	3	4	5
17.	Reads assigned text(s) or materials presented	1	2	3	4	5
18.	Comprehends assigned text(s) or material presented	1	2	3	4	5
19.	Understands and uses the mechanics of writing a sentence	1	2	3	4	5
20.	Organizes sentences and ideas into paragraphs	1	2	3	4	5
21.	Spelling is satisfactory	1	2	3	4	5
22.	Solves word problems	1	2	3	4	5
23.	Impulsive (acts or talks without thinking)	1	2	3	4	5
24.	Verbal communication clear and "connected"	1	2	3	4	5
25.	Approaches situations confidently	1	2	3	4	5
26.	Requires a great deal of teacher time for help with social or emotional problems	1	2	3	4	5
27.	Requires a great deal if teacher time for help with academic problems	1	2	3	4	5

MARYLAND STATE DEPARTMENT OF EDUCATION/CORRECTIONAL EDUCATION

SCREENING DISPOSITION FORM

Student's Name _____ Institution _____

Student's D.O.B. _____ Student's DOC # _____

DATA AVAILABLE

Test Scores: Reading _____ Math _____

Name and level of test: _____

Relevant Data From Base File: _____

_____

Other: _____

Teachers' screening referrals attached? YES _____ NO _____

TO BE COMPLETED BY MEMBERS OF SCREENING TEAM

DATE	NAME (Signature)	POSITION	COMMENTS
		Special Educ. Teacher	
		Psychologist	
		Principal	
		Counselor	

DISPOSITION STATUS

_____ No Assessment

_____ Assessment Needed

_____
DATE

Signature of Chairperson _____

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PAGE 2

SCREENING DISPOSITION FORM

I. CHECK IF THERE IS SUSPECTED HANDICAPPING CONDITION (OR CONDITIONS)

( )	Deaf	( )	Other Health Impaired
( )	Deaf-Blind	( )	Seriously Emotionally Disturbed
( )	Hard of Hearing	( )	Specific Learning Disability
( )	Mentally Retarded	( )	Speech Impaired
( )	Multi-Handicapped	( )	Visually Handicapped
( )	Orthopedically Impaired		

IF THERE IS A SUSPECTED HANDICAPPING CONDITION, PLEASE DESCRIBE HOW IT ADVERSELY AFFECTS ACADEMIC ACHIEVEMENT: _____

_____

_____

_____

II. ASSESSMENT (If appropriate, check areas to be assessed)

AREA	CHECK	TYPE OF EXAMINER REQUIRED
A. EDUCATIONAL		
1. Reading		
2. Mathematics	_____	_____
3. Spelling	_____	_____
4. Written Language	_____	_____
5. Oral Language	_____	_____
6. Perceptual Motor	_____	_____
7. (Other)	_____	_____
8. (Other)	_____	_____
B. Cognitive		
1. Psychological	_____	_____
2. Speech	_____	_____
3. Language	_____	_____
C. Emotional		
1. Psychiatric	_____	_____
2. Psychological	_____	_____
D. Physical		
1. Medical	_____	_____
2. Opthalmological	_____	_____
3. Audiological	_____	_____
4. Neurological	_____	_____
E. Related Areas (Incl. Vocational)		
1. _____	_____	_____
2. _____	_____	_____

MARYLAND STATE DEPARTMENT OF EDUCATION
CORRECTIONAL EDUCATION OFFICE

Explanation of Special Education Services

The Education Department staff wants to give any student who is having problems learning in school the help he may need. We feel that you may need help in making better progress in school.

We feel that a handicap may be causing your problem to learn. We would like to do some things to find out if you do have a handicap so we may help you to do better in school. If you are 18 now or older, you are considered an adult. This means you have certain rights and responsibilities. You can agree or not agree to the following things. We will go through these things so that you will understand what you are agreeing to or not agreeing to do.

TESTING:

School tests - current levels in reading, math, language, and spelling

Psychological evaluation - tells about social, emotional and cognitive ability

Medical tests - vision, hearing, speech, and general health

GETTING INFORMATION ABOUT YOU:

Your past school records may give information about you. You can give us permission to get this information. We cannot get it without your permission.

A MEETING:

An Admission, Review and Dismissal (ARD) Committee meeting will take place. Your teachers, the school principal, a counselor, and YOU may attend.

At the meeting we will discuss your test results. You may ask questions. We will decide if a handicap is causing your learning problem. We will develop an individualized list of classes you will attend and things you will try to do in your classes. Some of these things will be about what you will learn. Other things may be about how you will behave in class or how you will best learn. You can tell us what things you would like to do or how you feel the teacher can best help you. You will be told when the meeting is to be held ahead of time so you may get ready.

At the meeting you can agree or not agree with the type of handicap we feel you may have or with the IEP.

We will not carry out the IEP if you do not agree with it.

If you agree, we will meet to review your IEP and change it, if needed within sixty (60) days.

CONFIDENTIALITY:

This word means that the only people who will know about your educational handicap and your school program are you, your teachers, the school principal, and other educational staff.

The school records and testing information about your special education program will be maintained in a confidential manner by the educational staff. This information cannot be released to any outside person or agency without your written consent.

MARYLAND STATE DEPARTMENT OF EDUCATION/CORRECTIONAL EDUCATION
SPECIAL EDUCATION PROGRAM
RIGHTS OF PARENTS OF STUDENTS OVER 18 YEARS OF AGE

<u>During Placement Procedures, Your Rights Are As Follows:</u>

Your written permission must be secured before your son or daughter is tested (assessed).

You are to be afforded the opportunity to be informed of the results of test (assessments).

You must be informed of and invited by written notice to participate in Admission, Review and Dismissal (ARD) Committee meetings which address your son's or daughter's special education needs.

You must be notified when an Individualized Education Program (IEP) will be written for your son or daughter and you may participate.

You must sign the IEP before the program can be initiated.

You must give your consent before your son or daughter may be placed in a special education program.

You must consent before information regarding your son's or daughter's special education needs are submitted to the Maryland State Department of Education.

Your son's or daughter's IEP is subject to annual review by the ARD Committee and you must be informed in writing of the results of any review.

You have the right to request a hearing whenever the ARD Committee proposes to or refuses to change the identification, evaluation or educational placement/program of your son or daughter, if you disagree with the decision.

<u>During Appeal Procedure, You Have The Rights To:</u>

Examine school records concerning your son or daughter. (The right may be exercised at any time by appointment.)

Obtain a free independent evaluation with the prior approval of the Maryland State Department of Education.

Written notification about the hearing in your primary language or mode of communication.

An interpreter or translator as needed.

Be accompanied by and advised by counsel at the hearing.

Present evidence and cross examine witnesses.

Prohibit the introduction of any evidence which has not been disclosed to you at least five (5) days prior to the hearing.

Bring the student to the hearing.

Determine whether the hearing will be closed or open to the public.

Receive a verbatim transcript of the hearing at reasonable cost.

Keep the student in his/her current educational placement program until due process hearing appeals have been completed.

Appeal the decision of the hearing officer or hearing panel.

STUDENT'S CERTIFICATION OF UNDERSTANDING OF RIGHTS

I have read or had read to me the explanation of the special education program. I understand that I have the right to agree or disagree to be tested and to be placed in the program. I also have the right to attend ARD Committee meetings, to participate in the development of an individualized education program, and to approve or disapprove my individual educational program.

If I disagree with any decision of the ARD Committee, I have the right to appeal.

All the information about me will be held in confidence by the educational staff.

CHECK ONE:

_____ I wish to be considered for Special Education services.

_____ I do not wish to receive special education services. I know I may change my mind at any time and contact the Education Department.

_____ _____
Student's Signature Date

_____ _____
Signature of education staff member providing orientation Date

Have student sign this sheet, detach it from the explanation, and place it with the special education records. Give the explanation of special education services and the rights of parents or students 18 years of age or older to the student to keep.

MARYLAND STATE DEPARTMENT OF EDUCATION
CORRECTIONAL EDUCATION

PERMISSION FOR ASSESSMENT

School/Institution _____ Student's Name _____

Date _____ DOC # _____

Class/Level _____

Birth Date _____/_____/_____
Month Day Year

After a careful review of this student's educational performance, the ARD Committee has determined that he/she is in need of testing to further assist us in addressing his/her individual educational needs.

The tests we would like to administer are listed below:

Name of/or Type of Test	Title of Person Administering Test	Purpose of Test
_____	_____	_____
_____	_____	_____
_____	_____	_____

Before this testing can be done, we need your written consent. After the testing is completed, we will contact you to explain the results.

I give my permission for me/my child to be tested as described above.

I understand that this information will be used to help meet my child's individual educational needs, and that it will not be released to any outside agency without my consent. I further understand that a conference will be scheduled after testing is completed to discuss findings and recommendations.

_____ _____
Signature of Parent/Guardian or Student 18 years of Age or Older — Date

_____ _____
Case Manager — Date

MARYLAND STATE DEPARTMENT OF EDUCATION - CORRECTIONAL EDUCATION
PERMISSION TO OBTAIN EDUCATIONAL RECORDS

Student's Name _____ Institution _____

Date _____

You have my permission to request educational and related records for the above student from the following schools or agencies:

_____

_____

_____

_____

_____

_____

_____

Signature of Parent/Guardian or Student 18 years of age or older Date

_____ _____

Date Signature of Case Manager

REQUEST FOR VISION OR HEARING ASSESSMENT
FOR SPECIAL EDUCATION PURPOSES

Federal and State laws mandate that students identified as potentially eligible for Special Education services under Public Law 94:142 must receive priority for related hearing and vision services. Services must be provided in a timely fashion.

_____ (date)

_____ (vision/hearing)

_____ (student's name)

_____ (commitment number)

_____ (person referring)

_____ (institution)

Description of problem: _____

_____

_____

_____

Services requested: _____

_____

_____

Please send results to: _____

at _____ (telephone number and address)

before _____ (date).

The Director of Health and Mental Health Services, Division of Corrections, has established these potential educationally-handicapped students as a priority.

MARYLAND STATE DEPARTMENT OF EDUCATION

CORRECTIONAL EDUCATION

PERSONAL DATA SHEET

A. Identifying Data: Institution: _____

Name:

DOB:

DOC #:

Marital Status:

B. Educational History:

Highest Grade Completed _____ Year _____

Verified _____ yes _____ no

School: _____

Prior special education: _____ yes _____ no Where _____

Level of Service _____ When/Grade _____

C. Employment/Vocational History: (employer, data, duties, skills)

_____

_____

_____

D. Family/Social History: (parents, siblings, membership in organizations, etc.)

E. Medication and/or Medical Problem:

_____

_____

_____

F. Vocational Interest:

G. Other Relevant Data:

Search/Report Completed by: _____

Date: _____

Rev. 9/83

MARYLAND STATE DEPARTMENT OF EDUCATION

CORRECTIONAL EDUCATION

INDIVIDUAL ASSESSMENT REPORT

Student's Name _____ DOB: _____ Committment No. _____

Institution: _____

I. Procedures Used/Date:

II. Present Level of Performance:

Summary of Results/Observation & Assessment Data

III. Describe behaviors that contribute to the existence of the handicapping condition.

IV. How does the student's performance deviate from developmental milestones and/or general education objectives, i.e., student's performance as compared to his non-handicapped classmates?

V. Do you feel tht the above deviations justify the need for special education services?
If yes, why?

VI. Description of Needs:

What type or level of education services and/or instructional approach do you feel will benefit the student? Your Recommendations.

Signature of Assessor/Reporter _____

Title of Assessor/Reporter _____

Date of Assessment/Report _____

Rev. 11/83

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INDIVIDUAL EDUCATION PROGRAM (IEP)

I. Pupil _____ DOC#: _____ DOB _____

Institution _____ Case Manager _____

Date of eligibility meeting _____ Proj IEP Review Date _____ 1

Date of IEP meeting _____ Anticipated Date of Implem _____

Date of Annual Review _____ Projected Duration of Plan _____

II. Present Level of Performance:

Data Evaluated	Test Administered	Findings	Date	Examiner
Intell Function				
Reading Level				
Math Level				
Lang Arts/Engl				
Handwriting				
Speech/Language				
Perception				
Motor				
Hearing/Vision				
Medical/Phys				
Social/Emotnl				
Vocational				
Other				
Observation				

Verified handicapping condition(s) _____

Educational/Therapy needs _____

Level of placement and justification for placement _____
(Level)

_____

(justification)

_____

Percent of time in regular classroom

FACSIMILE

ARD/IEP Development Meeting Committee Members	
Name	Role

IEP Reviewed By:

_____

(Education Supervisor) Date

Certification: I certify that the ARD Committee formally approved this IEP on this date

_____ _____

Date ARD Chairperson

*Participating member but not in attendance at ARD meeting.

- -

ARD Committee Actions (Eligibility, Review, Dismissal, etc.)

Description of Action: _____ Date: _____

Committee Members:

_____

_____

_____

_____

Description of Action: _____ Date: _____

Committee Members:

_____

_____

_____

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Student or Parental Agreement

I have been involved in the development of this Individual Education Program and agree to its implementation as written. I understand that by signing this document I give my permission to have my child placed in the Special Education Program described above. I also agree to allow the Correctional Education branch of the Maryland State Department of Education to report the information contained on this Individual Education Program to the Maryland State Department of Education in a confidential manner.

Student or Parental Rights

As a parent or legal guardian, you may request a local hearing regarding the identification, evaluation or educational placement of your child. You may request an independent evaluation, view all records concerning your child and may be accompanied by a legal counsel at all meetings. The procedures for requesting an independent evaluation or local hearing and a complete description of your legal rights are available from the school educational supervisor or the Correctional Academic Specialist.

Linguistic Assurance

Assessments, notices, ARD proceedings, and all processes have been conducted in the primary language of the student and/or parent(s) or guardian(s).

Date: _____ _____

Parent, Guardian or Student (only if 18 years or older)

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INDIVIDUAL EDUCATION PROGRAM

Annual Goals and Short-Term Objectives

Approved: _____
(signature of student or parent)

Student _____ # _____ Academic or Vocational _____

Date: _____ Annual Goal _____

Person (s) Responsible _____

Short-Term Objectives	Methods and Materials	Evaluation Specify Method, Criterion, and Schedule of Measurement	Mastery Date

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ARD COMMITTEE MINUTES

PURPOSE:

Student: _____

DOC #: _____

DOB: _____

Institution: _____

Recorder: _____

Date: _____

1. Initial Review of Records _____
2. To recommend assessment _____
3. To determine eligibility _____
4. IEP/placement _____
5. Review or change of program _____
6. Dismissal _____

TEAM MEMBERS AND ROLES

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

DECISIONS

1.	6.
2.	7.
3.	8.
4.	9.
5.	10.

Formal Diagnosis: _____ SSIS Code _____

COMMENTS:

_____

SIGNATURE OF ARD CHAIRPERSON

MARYLAND STATE DEPARTMENT OF EDUCATION/CORRECTIONAL EDUCATION

CONSENT FORM FOR RELEASE OF CORRECTIONAL EDUCATION STUDENTS RECORDS

STUDENT'S NAME	DATE OF BIRTH	CORRECTIONAL INSTITUTION

The Education Department has my permission to release my (son's or daughter's) confidential records to

_____
Name of Individual

_____
Agency or Affiliation

A copy of the records may be sent to the above party _____ (Yes) or _____ (No)

The records may be reviewed in the office of the education supervisor _____ (Yes) or _____ (No)

_____ _____
Signature of student if 18 years or older (or parent/guardian, if student is younger than 18 years of age.) Date

FACSIMILE

MARYLAND STATE DEPARTMENT OF EDUCATION

CORRECTIONAL EDUCATION

REQUEST FOR PSYCHOLOGICAL CONSULTATION

Student: _____ DOC # _____ DOB: _____

Referred by: _____ Institution: _____

Title: _____

Date of Referral: _____

Brief Summary (including presenting problem)

What questions do you have of the Psychologist concerning the student? Be specific, e.g., is student eligible for special education services? How can this student be kept on task?

What additional information may be pertinent in evaluating this student? (e.g., student speaks with a lisp; needs glasses; unpredictable behavior)

For Psychology Unit use only:

Date Received: _____

Psychologist: _____

Date of Consultation/Evaluation: _____

Correctional Education/MSDE

Record of Level I Special Education Consultation

_____

Institution

Student: _____

Special Education Consultant: _____

Classroom Teacher or Other Staff Member: _____

_____

Instructional Area:* _____

Topic of Consultation: _____

_____

_____

_____

_____

_____

_____

_____

_____

Recommendations: _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

This form should be completed by the person functioning as special education consultant each time he or she confers (formally or informally) with a regular education staff member regarding a Special Education student. Completed form should be filed in students folder.

* Subject (i.e. English, Social Studies, Science, Math, etc.)

Appendix E

Correctional Special Education Compliance Questionnaire[1]

C. Michael Nelson and Robert B. Rutherford Jr.

I. Access to Special Education

A. Does a special education program exist?
   1. Is there a certified teacher? (Describe teacher's training and certification.)
   2. Is space provided?
   3. Are appropriate materials, etc. available?
   4. Is adequate supervision available?
   5. Who is responsible for the special education program?
   6. How much time each day do students spend in special education?
   7. How much time in regular education?
   8. Is the pupil-teacher ratio consistent with state guidelines?

B. Are there barriers to students' access to special education programs?
   1. Is the education program potentially available to offenders in all living areas and security classifications?
   2. Can students be removed from class for disciplinary reasons?
   3. If yes, for how many days?
   4. Is compensation offered to students for work in the institution which would preclude school attendance?
   5. If yes, is the amount paid greater or less than compensation for school attendance?
   6. Can students simultaneously take part in the special education program and the bilingual programs offered?

II. Availability of Related Services

A. Are audiology, medical services, PT, OT, and school health services available?
   1. Who is responsible for providing these services?
   2. Are qualified personnel available?

B. Are counseling, psychology, and social work services available?
   1. Who is responsible for providing these services?
   2. Are qualified personnel available?

---

1. Items contained in this questionnaire are based on M.H. Gerry's publication Monitoring the Special Education Programs of Correctional Institutions: A Guide for Special Education Monitoring Staff of State Education Agencies (1985).

3. What is the average caseload?
4. Are qualified educational counselors available?

C. Are speech pathology services available?
1. What is the average caseload?
2. Are qualified personnel available?

III. Child Identification, Location, Evaluation

A. Are all relevant agencies involved?

B. Are there procedures for the transfer of student records from and to the student's LEA?

C. Are identification and evaluation activities ongoing?
1. Are other program staff involved?
2. Are there systematic in-school student identification procedures?
3. Are there in-school referral procedures?

D. Are all identified offenders evaluated?

IV. Individualized Education Program (IEP)

A. Is the IEP in effect prior to the provision of services?

B. Is an IEP meeting held within 30 days of a determination that a student needs special education and related services?

C. Do the participants include:
1. A representative of the public agency?
2. The student's teacher?
3. The student's parents or an appropriate surrogate (where appropriate)?
4. The student (where appropriate)?
5. Evaluation personnel (qualified to provide or supervise special education)?
6. Others, at the discretion of the parents or agency?

D. Do the IEP contents describe:
1. The student's present level of performance?
2. Goals and objectives?
3. The special education and related services to be provided?
4. The extent to which the student will participate in regular education programs?
5. Dates of initiation and duration of services?
6. Objective evaluation procedures and criteria?

E. Are complete IEPs available on all handicapped students served in the last 12 months?

F. What is the average number of days handicapped students were out of school?

V. Procedural Safeguards

A. Have all relevant state agencies implemented procedures consistent with SEA guidelines?

B. Are procedures in place which assure:
   1. Opportunity to examine records?
   2. Right to an independent evaluation?
   3. Right to an impartial due process hearing?
   4. An impartial hearing officer?
   5. Hearing rights?
   6. Right to a hearing decision appeal?
   7. Right to an administrative appeal, impartial review?
   8. Right to pursue civil action?
   9. Adherence to timeline/convenient hearings and review?
   10. The availability of surrogate parents, if needed?
   11. The knowledge and right to file a formal complaint?

VI. Confidentiality

A. Do parents and surrogate parents have the right to inspect and review records?

B. Do unauthorized program personnel (e.g., trustees) have access to information regarding handicapped students?

C. Are handicapped students identifiable as such because other inmates have access to their educational records?

D. Are handicapped students' due process rights circumvented? If yes, under what circumstances?

VII. Compliance in Evaluation Procedures

A. Are all components of the individualized evaluation present?
   1. Classroom observation?
   2. Intelligence testing?
   3. Assessment of current academic performance/achievement?
   4. Assessment of sensory modalities?

B. Is the evaluation conducted by a qualified multidisciplinary team?

C. Does the diagnostic center obtain prior school records as part of the intake process?

D. Are there procedures for scheduling individual evaluations after initial intake?

E. Who makes placement decisions?

F. What information is used in making placement decisions?

VIII. Least Restrictive Environment

A. What is the continuum of educational services available to handicapped students? (Describe specific programs, e.g., self-contained LD classroom, resource room, consultation to regular classroom teachers, etc.)

B. Are there restrictions on the access of handicapped students to regular education programs (e.g., vocational education, physical education, bilingual education)?

C. Are handicapped students provided segregated special vocational, physical, and bilingual education programs?

D. Are appropriate supportive education services available to handicapped students in regular education programs?

E. Are the personnel delivering these supportive services qualified?

IX. Comprehensive System of Personnel Development (CSPD)

A. Is the program participating in the SEA's CSPD?

B. Is the program participating in the SEA's in-service plan?

C. Describe the types of in-service training special education staff have received during the past year. Include agency delivering the training, content of the training, length of the training, and type of certification, credit, etc., staff received (if any).

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